### ARTICLE 73

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TEXT OF ARTICLE 73

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

c. to further international peace and security;

d. to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical
achievement of the social, economic, and scientific purposes set forth in this Article; and

e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

INTRODUCTORY NOTE

1. The arrangement of this study of the practice of United Nations organs in the application of Article 73 is the same as that in previous Repertory studies of this Article. It is presented under the same headings, except that subheadings have been added where necessary, and two new headings have been introduced in section II C: "7. The resumption of the responsibility to transmit information" and "8. The determination of the Territories falling within the scope of Chapter XI and of the obligation to transmit information". In some cases, notably in section II C 6 "a. Alaska and Hawaii" and "b. French Territories", and in section II C 8, "The determination of the Territories falling within the scope of Chapter XI and of the obligation to transmit information", the period covered by the study has been extended into the fourteenth session of the General Assembly in order to complete the discussion.

I. GENERAL SURVEY

2. During the eleventh, twelfth and thirteenth sessions of the General Assembly, questions of the application and interpretation of Article 73 were again raised. The principal issue centred on the determination of whether or not an obligation existed for Members to transmit information on Territories whose peoples had not yet attained a full measure of self-government, and on the competence of the General Assembly in this matter.

3. As noted in the Repertory, previous discussion of these questions related mainly to the circumstances in which the obligation to transmit information came to an end as a result of the cessation of the transmission of information on certain Territories. Not until 1956 had the General Assembly been seized of a case in which the initial transmission of information was the issue in the debate.

4. The admission of sixteen Members to the United Nations in December 1955 led to a discussion in the General Assembly at its eleventh session of the question whether some of the new Members were responsible for the administration of Territories to which Chapter XI applied and should therefore transmit information on these Territories, under Article 73 e. The General Assembly failed to agree on a specific course to pursue in this matter until later, during its fourteenth session, when it established a committee to study the principles which should guide Members in determining whether or not an obligation existed to transmit information called for in Article 73 e. The issues involved are described in section II C 8, below.

1/ These questions were also raised later, during the fourteenth session.
2/ Vol. IV, under Article 73, section C.
5. The meaning of the word "regularly" in relation to the transmission of information under Article 73 e was the subject of General Assembly resolutions adopted during its first three sessions. In 1956, a delay in the transmission of information led to action in the Committee on Information from Non-Self-Governing Territories and in the Fourth Committee of the General Assembly. As a result, the obligation undertaken by Members, to transmit the information referred to in Article 73 e regularly to the Secretary-General, was again confirmed. This question is treated in section II A 2, below.

6. Though the present study is concerned mainly with practices which developed in consequence of specific issues that were raised, reference may also be made to evolution in practice in consequence of general obligations. When, for instance, the Cocos-Keeling Islands were transferred from the administration of the United Kingdom to that of Australia, the responsibility for transmitting information called for under Article 73 e was also assumed by Australia. After 1957 Australia continued to transmit information on this Territory. A further example was the resumption of the transmission of information on Malta by the United Kingdom as a result of constitutional changes affecting that Territory.

7. The General Assembly continued its usual practice of requesting Administering Members to include specific details relating to economic, social and educational fields in the information they transmitted. Illustrative of this practice were decisions by the General Assembly at its twelfth and thirteenth sessions to request information on the effects of the association of Non-Self-Governing Territories with the European Economic Community.

8. During the period covered by this review, there were no changes in the principal procedures established for the examination of information transmitted under Article 73 e. At the thirteenth session of the General Assembly, the Committee on Information from Non-Self-Governing Territories was again continued for a period of three years on the same basis as before. By decisions to examine the effects of the association of Non-Self-Governing Territories with the European Economic Community and to review the progress achieved in the Territories since 1946 in pursuance of the objectives of Chapter XI of the Charter, the General Assembly continued to recognize the importance of the advancement of the peoples in Non-Self-Governing Territories in relation to general programmes of regional or world advancement.

5/ From 1946 to 1955 the United Kingdom transmitted information on the Cocos-Keeling Islands as part of Singapore. In 1955, the administration of the islands was returned to Australia. In 1957, in response to a question raised in the Committee on Information from Non-Self-Governing Territories, the representative of Australia, at the 167th meeting of the Committee, stated that his Government intended to transmit information on the Territory, in accordance with Article 73 e (G A (XII), Suppl. No. 15 (A/3647), para. 101). The first report contained information for the year 1957.
6/ Repertory, vol. IV, under Article 73, paras. 139-199.
7/ See paras. 45-54, below.
II. ANALYTICAL SUMMARY OF PRACTICE

A. The transmission of information

1. The initial enumeration of the Territories in respect to which information is transmitted

9. As has been reported, following the practice adopted in 1946, the Secretary-General on 28 February 1956 addressed a letter to each of the Members admitted in December 1955, inviting them to inform him whether there were any Territories under their administration whose people had not yet attained a full measure of self-government.

10. At the eleventh session, the General Assembly had before it the replies of Albania, Austria, Bulgaria, Cambodia, Ceylon, Finland, Hungary, Ireland, Italy, Laos, Libya, Nepal, Portugal and Romania, stating that they did not administer any Territories on which an obligation existed to transmit the information called for in Article 73 e. The view was expressed in the Fourth Committee that some of the Members admitted in 1955 had Territories under their administration whose peoples had not yet attained a full measure of self-government and that these Territories should be enumerated. This led to a debate on the competence of the General Assembly in this matter and on the interpretation of the Charter.

11. A draft resolution was submitted which would establish an ad hoc committee to study the question of the application of Chapter XI to new Members. In an amendment to the draft resolution, it was suggested that the General Assembly should establish an ad hoc committee "to arrive at a definition of the expression 'Non-Self-Governing Territories' in Chapter XI of the Charter and to determine, taking into account the work of all similar committees previously established, on what criteria a given Territory may be placed in this category".

12. It was further suggested that in the light of the definition arrived at, the ad hoc committee should review the list of Territories set forth in General Assembly resolution 66 (1) and should submit a new and complete list of such Territories, including those administered by one or more of the new Members, to the General Assembly at its twelfth regular session.

13. Neither the amendment nor the original proposal was adopted and no decision on the enumeration of Non-Self-Governing Territories was taken by the General Assembly at its eleventh session.

14. When Japan, Morocco, Sudan and Tunisia were admitted in 1956, and when the Federation of Malaya and Ghana were admitted in 1957, the Secretary-General followed the same practice as before, and drew attention to obligations under Chapter XI in a letter to these new Members. At the twelfth and thirteenth sessions of the General Assembly.

10/ See section II C, below.
13/ See section II C 8, below.
Assembly, the Fourth Committee's examination of the replies 14/ led to proposals to appoint a committee to study the question of the application of Chapter XI of the Charter. Although the proposals failed in the General Assembly at these sessions, subsequently, during the fourteenth session, the General Assembly established 15/ such a committee. By the end of 1959, however, no further Territories had been added to those listed in resolution 66 (I).

2. The meaning of the word "regularly" in relation to the transmission of information under Article 73 e

15. Following the adoption of General Assembly resolution 218 (III) in 1948, 16/ Administering Members regularly transmitted the information called for under Article 73 e, and each year the summaries of this information prepared by the Secretary-General were placed before the Committee on Information from Non-Self-Governing Territories. When the Committee met in 1957, the absence of the summaries of information on the Belgian and French Territories for the year 1955 raised the question of the obligation of Administering Members. The representatives of France explained 17/ that the delay was due to constitutional changes in the Territories and undertook to supply the information as soon as possible.

16. No explanation was given by Belgium, whose representatives had been absent from the Committee since 1953, 18/ and the Committee invited the Chairman to approach the Belgian authorities informally on this question. Subsequently, the Chairman reported that he had approached the Permanent Mission of Belgium to the United Nations, and the Permanent Mission had no communication to make. The Committee noted that a communiqué 19/ from the Ministry of Foreign Affairs of Belgium, which had been made public on 2 August 1957, stated that Belgium had always recognized its obligations under the Charter and would continue to conform to the exact terms of the Charter in transmitting the information on the Belgian Congo to the Library of the United Nations. The Committee agreed 20/ that communications exchanged between the Permanent Mission of Belgium and the Secretary-General should be brought before the General Assembly.

17. On 14 October 1957, when the Fourth Committee discussed the subject of information from Non-Self-Governing Territories, it had before it the communications 21/ submitted by the Committee on Information from Non-Self-Governing Territories. Following a number of statements in the Fourth Committee on the absence of information from Belgium, the Committee was informed at the 655th meeting, on 29 October, that by a letter dated 11 October 1957, 22/ the Government of Belgium had transmitted to the Secretary-General the Rapport aux Chambres sur l'administration du Congo belge pour l'année 1955. The letter transmitting the report also stated that the report for the year 1956 would be transmitted immediately upon publication.

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15/ G A resolution 1467 (XIV).
16/ See Repertory, vol. IV, under Article 73, paras. 27-33.
17/ G A (XII), Suppl. No. 15 (A/3647), part one, para. 91.
18/ In 1953 Belgium had informed the Committee on Information from Non-Self-Governing Territories that it would no longer take part in the work of the Committee.
19/ G A (XII), Suppl. No. 15 (A/3647), part one, para. 98.
20/ G A (XII), Suppl. No. 15 (A/3647), part one, para. 100.
22/ Ibid., Add.1.
18. In this connexion, the view was expressed that the Administering Members had undertaken to transmit information regularly to the Secretary-General, and that this meant "at regular intervals". The length of these intervals had been determined by an exchange of views between the Secretary-General and the Administering Members. It was important for the examination of the information that the Administering Members should not only fulfil the obligation to transmit information but should transmit it within the time limits that had been agreed upon. Since the Government of Belgium had transmitted the latest information available on the Belgian Congo to the Secretary-General, no further action was taken on this question by the General Assembly at its twelfth session.

3. **Nature and form of the information to be transmitted**

19. The Standard Form adopted by the General Assembly in resolution 551 (VI), which had been provided "for the guidance of Members in the preparation of information to be transmitted under Article 73 e", was not modified after 1955. In accordance with its previous practice, however, the General Assembly, during the period covered, adopted a number of resolutions requesting the Administering Members to include details of a more specific nature with the information transmitted regularly.

20. In connexion with the decision of the General Assembly at the eleventh session, on the desirability of examining the progress achieved in Non-Self-Governing Territories since the establishment of the United Nations, the Secretary-General, in his report to the General Assembly and in a statement before the Fourth Committee, suggested that while the report could be based on information transmitted under Article 73 e, supplemented by information placed at the disposal of the Secretary-General and the specialized agencies, it would be of value if the Administering Members would include information on general trends in their annual communications, as provided in the explanatory preface to the Standard Form.

21. Subsequently, this suggestion was incorporated in a draft resolution submitted in the Fourth Committee. Under this proposal the General Assembly would

"invite the Administering Members to include in the information transmitted by them under Article 73 e of the Charter such information as may be necessary for the preparation of the report, and in particular to provide a survey of the principles and practical measures showing general trends in the Territories concerned as requested in section C of the explanatory preface of the Standard Form ..."

22. The inclusion of this request by the General Assembly was opposed on the ground that such a formal request placed the Administering Members under pressure to comply; it seemed to go beyond the framework of the transmission of information provided

23/ G A (XII), 4th Com., 687th mtg., paras. 33 and 34.
24/ Repertory, Supplement No. 1, vol. II, under Article 73, paras. 5-8.
25/ G A resolution 645 (VII).
26/ G A resolutions 1053 (XI), 1153 (XII), 1328 (XIII) and 1330 (XIII).
27/ G A resolution 952 (X); see also Repertory, Supplement No. 1, vol. II, under Article 73, paras. 20-23.
29/ G A (XI), 4th Com., 616th mtg., paras. 18-24; see also A/C.4/346 (mimeographed).
31/ G A (XI), 4th Com., 625th mtg., paras. 14 and 20.
by the Standard Form and thus went beyond the obligations assumed by the Administering Members.

23. A suggestion to modify the wording of the request was later accepted and adopted in General Assembly resolution 1053 (XI).

Decision

The General Assembly, by resolution 1053 (XI) in connexion with the preparation of a report on progress in the Non-Self-Governing Territories since the establishment of the United Nations, invited the Administering Members to include in the information regularly transmitted by them under Article 73 e of the Charter such information as might be practicable for the preparation of the report, including a survey of principles and practical measures, showing general trends in the Territories concerned, as indicated in section C of the explanatory preface of the Standard Form for the guidance of Members in the preparation of information to be transmitted under Article 73 e of the Charter.

24. After the European Economic Community (EEC) was established by a treaty signed in Rome in 1957, 32/ a proposal was submitted in the Fourth Committee, during the twelfth session of the General Assembly, asking the Administering Members to transmit information, under Article 73 e, on the association of the Non-Self-Governing Territories under their administration with EEC.

25. Members opposing this request stated that the treaty would not become effective until 1958, and consequently information could not be transmitted until 1959. The Administering Members considered that the effects of EEC would normally be discussed in other organs of the United Nations, and expressed the view that discussion in the Fourth Committee was unnecessary.

26. The proposal was approved by the Fourth Committee and adopted by the General Assembly.

Decision

The General Assembly, by resolution 1153 (XII), invited the Administering Members to transmit to the Secretary-General, in conformity with Article 73 e of the Charter, information on the association of the Non-Self-Governing Territories under their administration with the European Economic Community.

27. When, however, the question of the association of Non-Self-Governing Territories with EEC was discussed at the thirteenth session of the General Assembly, the Secretary-General noted in his report that it was not possible to determine the effects because little information was available. This led the General Assembly to address a similar request to the Administering Members.

28. Though it was again pointed out that consideration of this question by the Fourth Committee was premature, no new arguments were put forward; substantially the same request was later addressed to the Administering Members at the fourteenth session of the General Assembly.

32/ See paras. 45-54 below.
Decision

By resolution 1330 (XIII), the General Assembly again invited the Administering Members concerned to transmit information to the Secretary-General on the association of the Non-Self-Governing Territories under their administration with the European Economic Community. This request was subsequently repeated in resolution 1471 (XIV).

4. The use of supplemental information

29. The question of the use of supplemental information was raised in connexion with the preparation of a report on progress achieved in the Non-Self-Governing Territories, described more fully in section II B 1 a, below.

30. By a draft resolution introduced in the Fourth Committee, the General Assembly would suggest that the proposed report should be based on information transmitted under Article 73 e of the Charter and on supplemental information supplied by the Administering Members concerned to the Secretariat of the United Nations and the secretariats of the specialized agencies.

31. The use of supplemental information was opposed on grounds of both constitutional considerations and practical difficulties. It was contended that whereas the Administering Members transmitted information to the United Nations in accordance with their obligations under the Charter, the information supplied to the specialized agencies was furnished under other agreements and for other purposes. It was therefore not proper for the United Nations to make use of such information for a progress report. The fact that such a large amount of information was supplied to the specialized agencies created practical difficulties in the use of the material.

32. In support of its use, it was suggested that the specialized agencies could be trusted not to misuse information supplied to them which was not also furnished to the United Nations. An objection was raised on the ground of principle, however; information supplied to specialized agencies for one purpose should not be used for a different purpose.

33. An amendment which would have proposed that the report should be based on the information transmitted under Article 73 e and on "supplemental information of an official nature", was withdrawn, and the original wording was maintained in the text which was subsequently adopted by the General Assembly as resolution 1053 (XI).

Decision

In operative paragraph 4 of resolution 1053 (XI), the General Assembly considered that the report should be based on the information transmitted under Article 73 e of the Charter and on the supplemental information supplied to the Secretary-General of the United Nations and the secretariats of the specialized agencies by the Administering Members concerned.

5. The use of comparable information

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34/ G A (XI), 4th Com., 625th mtg.

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6. The question of the transmission of information of a political character

The question of the transmission of information of a political character was raised at the eleventh session of the General Assembly during the discussion of the preparation of a report on the progress achieved by the Non-Self-Governing Territories after 1946. 36/  

35. In the Fourth Committee it was noted 37/ that since the transmission of information on constitutional developments in the Territories was optional, the Secretary-General might receive such information from some Administering Members and not from others. It was therefore suggested that a new paragraph should be added to the text of the draft resolution whereby the General Assembly would appeal to Administering Members that had not given optional information under part I, section D of the Standard Form, to render valuable assistance to the Secretary-General in the preparation of a complete report on Non-Self-Governing Territories, by voluntarily supplying him with information showing the progress achieved in respect of the Territories under their administration. This proposal, however, was not formally submitted.  

B. The examination of information transmitted under Article 73 e

1. The preparation of summaries, analyses and special reports

36. There was no major change during the period under review in the preparation of summaries and analyses of information for the Committee on Information from Non-Self-Governing Territories, as provided in General Assembly resolutions 218 (III) and 333 (IV). 38/ Following the established three-year cycle of work, the Committee examined educational conditions in the Territories in 1956, economic conditions in 1957 and social conditions in 1958. The General Assembly also decided to examine a number of specific issues and requested the preparation of special reports.

a. PROGRESS ACHIEVED IN THE NON-SELF-GOVERNING TERRITORIES 39/

37. In accordance with the terms of resolution 932 (X), the Secretary-General submitted to the General Assembly at the eleventh session, as an annex to his report, an outline 40/ of the main points to be covered in the examination of the progress achieved in Non-Self-Governing Territories. A draft resolution 41/ was submitted in the Fourth Committee in which the General Assembly would note that resolution 932 (X) had suggested that an examination of the progress achieved in Non-Self-Governing Territories after the establishment of the United Nations, based on information received under Article 73 e of the Charter, would be highly desirable. The draft resolution would consider that the principal points indicated by the Secretary-General in the annex to his report (A/3196) would form a satisfactory basis for the preparation of a report for this purpose. In addition, the resolution would invite the Secretary-General, in collaboration with the specialized agencies concerned, to prepare for

36/ See paras. 37-41 below.
37/ G A (XI), 4th Com., 525th mtg., para. 7.
38/ Repertory, vol. IV, under Article 73, paras. 90 and 92-94.
submission to the General Assembly at its fourteenth session a report on the progress that had taken place in the Non-Self-Governing Territories in accordance with the objectives set forth in Chapter XI of the Charter, from the time of the establishment of the United Nations; and would invite the specialized agencies concerned to assist the Secretary-General in the preparation of the report. The draft resolution further provided that the report should be based on information transmitted under Article 73 e of the Charter and on the supplemental information supplied to the Secretariat of the United Nations and the secretariats of the specialized agencies by the Administering Members concerned.

38. Most of the discussion in the Fourth Committee centred on the character of information on which the report should be based, the nature of the co-operation of the specialized agencies and the extent to which progress in the political field would be covered.

39. The following were the principal arguments advanced against the preparation of a progress report: it would serve no useful purpose since it would be based on information that had already been published and, at best, would be very much out of date and of interest only to research workers; it was unnecessary for the United Nations to undertake such a task in view of its limited financial resources; and the wording implied that the report would be examined and used as a basis for recommendations, a use that was unacceptable to the Administering Members since the transmission of information under Article 73 e was for information purposes only.

40. Administering Members opposed the inclusion of the words "in accordance with the objectives set forth in Chapter XI of the Charter", as implying that the report would cover developments in political fields. They pointed out that resolution 932 (X) had referred to an examination of progress based on information transmitted under Article 73 e. It was maintained, however, that since Article 73 b referred specifically to political development, progress in that field should be covered. It was suggested that the General Assembly should appeal to Administering Members to supply such information voluntarily, and, in addition, an amendment was introduced which would have emphasized that the attainment of self-government was the objective of Chapter XI of the Charter. This amendment, however, was later withdrawn.

41. The sponsors finally accepted amendments which met the objections of the Administering Members, and the revised text was approved by the Fourth Committee. It was subsequently adopted by the General Assembly as resolution 1053 (XI).

Decision

The General Assembly, in resolution 1053 (XI),

"Considering that Article 73 e of the Charter of the United Nations makes provision for the regular transmission to the Secretary-General of information on conditions in the Territories whose peoples have not yet attained a full measure of self-government, and that General Assembly resolution 219 (III) of

42/ See section II A 3 above.
43/ See section II B 2 b below.
44/ G A (XI), 4th Com., 625th-627th mtgs.
45/ See section II A 6 above.

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3 November 1948, establishes a system for the transmission of such information and for the preparation of summaries of the information so transmitted,

"Considering that, by resolutions 551 (VI) of 7 December 1951 and 930 (X) of 8 November 1955, the Standard Form for the guidance of Members in the preparation of information has been adapted in the light of experience,

"Noting that resolution 932 (X) of 8 November 1955 suggests that an examination of the progress achieved in the Non-Self-Governing Territories since the establishment of the United Nations, based on the information received under Article 73 e of the Charter, would be highly desirable,

"Noting that, although the Administering Members have annually supplied reports on the progress in Territories under their administration, there does not exist in an appropriate form a record of such progress as has been made since the establishment of the United Nations,

"Considering that the principal points indicated by the Secretary-General in his report of 28 September 1956 form a satisfactory basis for such a record,

"1. Notes with appreciation the assistance provided to the Secretary-General, in giving effect to General Assembly resolution 932 (X) of 8 November 1955, by the International Labour Organisation, the Food and Agriculture Organization of the United Nations, the World Health Organization and the United Nations Educational, Scientific and Cultural Organization;

"2. Invites the Secretary-General, in collaboration with the specialized agencies concerned, to prepare, for submission to the General Assembly at its fourteenth session, a report on the progress that has taken place in the Non-Self-Governing Territories, in those fields on which information has been transmitted, in accordance with the objectives set forth in Chapter XI of the Charter, since the establishment of the United Nations;

"3. Invites the specialized agencies concerned to collaborate with the Secretary-General in the preparation of the report;

"4. Considers that the report should be based on the information transmitted under Article 73 e of the Charter and on the supplemental information supplied to the secretariats of the United Nations and of the specialized agencies by the Administering Members concerned;

"5. Invites the Administering Members to include in the information regularly transmitted by them under Article 73 e of the Charter such information as may be practicable for the preparation of the report, including a survey of the principles and practical measures showing general trends in the Territories concerned as indicated in section C of the explanatory preface of the Standard Form for the guidance of Members in the preparation of information to be transmitted under Article 73 e of the Charter;

"6. Invites the Secretary-General to keep the Committee on Information from Non-Self-Governing Territories regularly informed of the progress of the report provided for in the present resolution."

42. At its twelfth session the General Assembly accepted the Secretary-General's suggestion, contained in his report to the 1958 session of the Committee on Information
43. In 1959 the Committee examined the summaries of information forming part of the Progress Report. It also discussed the desirability of having the General Assembly delegate the task of examining the Progress Report to a smaller body, in the first instance, and suggested that this task might be entrusted to a small ad hoc committee appointed by the General Assembly or it might be undertaken by the Committee itself.

44. Subsequently, during the fourteenth session of the General Assembly, a draft resolution was introduced in the Fourth Committee whereby the General Assembly would request the Committee on Information from Non-Self-Governing Territories to examine the report and to submit its observations to the General Assembly at the fifteenth session "in order to assist it in its consideration ...". It was explained that the wording of this proposal ensured that the Fourth Committee would not be bypassed, and that members would have an opportunity to express their views, both on the report and on the observations. The draft resolution was approved by the Fourth Committee and subsequently adopted by the General Assembly as resolution 1461 (XIV).

Decision

By resolution 1461 (XIV), the General Assembly requested the Committee on Information from Non-Self-Governing Territories to examine the Progress Report at its ensuing session, in addition to its regular programme of work, with a view to ascertaining the progress made by the inhabitants of the Non-Self-Governing Territories in the light of the objectives set forth in Chapter XI of the Charter; further requested the Committee to submit its observations and conclusions on the report to the General Assembly at its fifteenth session, in order to assist it in its consideration of the report; and requested the Committee, in so doing, to be guided by the terms of all relevant resolutions of the General Assembly, in particular, resolutions 932 (X) and 1053 (XI), as well as by the provisions of Chapter XI of the Charter.

b. THE ASSOCIATION OF NON-SELF-GOVERNING TERRITORIES WITH THE EUROPEAN ECONOMIC COMMUNITY

45. Another question which was the subject of special reports requested by the General Assembly concerned the association of Non-Self-Governing Territories with the European Economic Community (EEC).

46. The question was first raised in the Committee on Information from Non-Self-Governing Territories in 1957. Several representatives drew attention to the treaty establishing the European Economic Community and suggested that the Committee should examine, in the light of Chapter XI of the Charter, the possible effects of EEC on the economies of the Non-Self-Governing Territories. On the request of the

48/ G A (XIII), Suppl. No. 15 (A/3377), part one, para. 75.
49/ A/C.4/L.622 (mimeographed).
50/ G A (XII), Suppl. No. 15 (A/5647), part one, paras. 22 and 23.
Committee, the Secretary-General made available excerpts 51/ of the provisions of the treaty establishing EEC and the provisions of the Applicatory Convention relating to its association with Non-Self-Governing Territories.

47. In view of the fact that the treaty was not to come into effect until 1958, some representatives opposed discussion of this question by the Committee as premature. The view was also expressed 52/ that the proper place for discussion of EEC was the conference of the Contracting Parties to the General Agreement on Tariffs and Trade (GATT). However, a motion to close the debate was rejected by the Committee.

48. When the Fourth Committee considered the question in 1957, during the twelfth session of the General Assembly, a formal reservation against debate was made 53/ by France on behalf of the signatory States. The representative of France stated that the provisions of the treaty were still under discussion in the national legislatures; discussion in the United Nations would bring pressure on these bodies and thus constitute interference within the meaning of Article 2 (7). Other representatives maintained that it was the duty of the General Assembly to examine every development which might have a bearing on the provisions of Article 73. The General Assembly should therefore know the possible effect on the Non-Self-Governing Territories of economic association with EEC, including the advantages they might derive, and whether the association was compatible with the provisions of Article 73.

49. A draft resolution 54/ was submitted in the Fourth Committee by which the General Assembly, believing that the association of Non-Self-Governing Territories with the European Economic Community might have important effects on their economic development, (a) would invite the Administering Members concerned to transmit to the Secretary-General, in conformity with Article 73 e of the Charter, information on the association of the Non-Self-Governing Territories under their administration with EEC; (b) would request the Secretary-General to prepare a study of this question for the thirteenth session of the General Assembly, taking into account the studies undertaken by other United Nations bodies; and (c) would decide to resume discussion of this question at its thirteenth session.

50. The draft resolution and discussion by the Committee were opposed 55/ as premature because the treaty had not yet come into force. Moreover, the Committee at that time had under consideration information transmitted for the year 1955; when EEC had not yet been in process of formation. Under Article 73 e, the United Nations was not authorized to discuss the economic policies of Administering Members but was entitled to receive only a posteriori "statistical and other information of a technical nature ...". The European Economic Community was to be established in 1958, and information could not be transmitted before 1959. The question was therefore not before the Committee. The proposal, moreover, sought to establish a special method for studying the effects of

51/ A/AC.35/L.254 and Add.l (mimeographed).
52/ For texts of relevant statements, see A/AC.35/SR.153: Guatemala, p. 10; SR.161: Netherlands, pp. 7 and 8; SR.163: France, p. 4; Iraq, pp. 3 and 4.
53/ G A (XII), 4th Com., 672nd mtg., paras. 11-15.
54/ G A (XII), Annexes, a.i. 35, p. 26, A/3733, para. 21. For texts of relevant statements, see G A (XII), 4th Com., 672nd mtg.: India, paras. 51-54; 675th mtg.: Guatemala, paras. 34-36; 676th mtg.: Afghanistan, para. 55; Bulgaria, para. 28; Ecuador, para. 14; Iraq, paras. 47-50; Saudi Arabia, para. 6; 677th mtg.: Egypt, paras. 1-3; Yugoslavia, paras. 29 and 30; 678th mtg.: France, paras. 61-74; Israel, para. 13; Syria, para. 29.
55/ G A (XII), 4th Com., 672nd mtg.: France, paras. 11-15.
EEC on Non-Self-Governing Territories, apart from discussions in other United Nations bodies, such as the Economic and Social Council and the regional economic commissions.

51. In view of the objections stated, it was suggested 56/ that, instead of adopting a proposal, the Fourth Committee should report to the General Assembly that examination in the United Nations of the evolution of EEC would normally be expected to take place within the framework of the review of the annual economic surveys.

52. This suggestion was opposed 57/ on the ground that it created a precedent whereby the Fourth Committee would transfer discussions on important questions to other organs. The Fourth Committee was concerned with dependent peoples and no other body had examined this particular aspect of EEC, that is, the impact on Non-Self-Governing Territories of their association with EEC.

53. The suggestion was then withdrawn and the Fourth Committee approved 58/ a revised text of the proposal by a roll-call vote of 51 to 13, with 8 abstentions. This text was adopted by the General Assembly and became resolution 1153 (XII).

Decision

In resolution 1153 (XII), the General Assembly, believing that the association of Non-Self-Governing Territories with the European Economic Community might have important effects on the economic development of the Territories, requested the Secretary-General to prepare for the thirteenth session of the General Assembly a report on developments connected with the association of Non-Self-Governing Territories with EEC, taking into account the studies that might be undertaken in this connexion by the Economic and Social Council, the Economic Commission for Europe, the Economic Commission for Asia and the Far East, the Economic Commission for Latin America and other international organs, in so far as these studies might be relevant to the economic development of Non-Self-Governing Territories; and decided to resume consideration of this question at its thirteenth session.

54. At its thirteenth and fourteenth sessions, the General Assembly adopted resolutions 1330 (XIII) and 1470 (XIV). The purpose of these resolutions was to keep the question of the association of Non-Self-Governing Territories with the European Economic Community under review.

C. PUBLICATION OF SUMMARIES OF INFORMATION TRANSMITTED UNDER ARTICLE 73 e

55. Beginning in 1947, information transmitted under Article 73 e was summarized each year by the Secretary-General, and was issued in the form of mimeographed documents for consideration by the Committee on Information from Non-Self-Governing Territories and the General Assembly. The summaries were then published in an annual volume under the title "Non-Self-Governing Territories: Information transmitted to the Secretary-General under Article 73 e". The volumes were also distributed as United Nations sales publications and were included in the official sales catalogue.

56. A change in the arrangements for publication and distribution of these summaries had first been discussed in the Committee on Information from Non-Self-Governing Territories in 1955, in the light of General Assembly resolution 789 (VIII) on the control and limitation of documentation.

56/ G A (XII), 4th Com., 682nd mtg., para. 38.
57/ Ibid., para. 49; 684th mtg., paras. 8, 10, 16, 21 and 25.
58/ Ibid., 684th mtg., paras. 30 and 40.
57. No formal proposals were made in the Committee, but a number of members had emphasized the need for publication and wide distribution of information on Non-Self-Governing Territories, in view of the provisions of General Assembly resolutions. The Committee agreed that these opinions should be brought to the attention of the Secretary-General, and that the matter should be left to his discretion.

58. In 1956, the Secretary-General had suggested that the supplementary summaries issued in the intervals between the full summaries (which were prepared every three years) should be reproduced in separate fascicles by an offset process. By eliminating final printing, there would be a saving of $18,000 during a three-year period. As a consequence of this reproduction process, however, the summaries in intervening years would no longer be listed in the United Nations catalogue of sales publications and would no longer be placed on sale.

59. In opposition to the proposal, the view was expressed in the Committee on Information from Non-Self-Governing Territories that the saving of $6,000 a year did not justify curtailment of the distribution of information on Non-Self-Governing Territories, which the Committee considered highly desirable and necessary. No additional points were introduced in the discussion of this question before the Fourth Committee during the eleventh session of the General Assembly.

60. The General Assembly adopted a text submitted by the Fourth Committee; this became resolution 1052 (XI).

Decision

The General Assembly, in resolution 1052 (XI), invited the Secretary-General to prepare a report on the comparative costs of various methods of reproducing the summaries of information. In so doing, the General Assembly noted that the printed editions of the summaries of information would be replaced for two years out of three, by fascicles in offset, and recorded its opinion that there should be no lowering in the standards of reproduction or distribution of information on Non-Self-Governing Territories, and that the proposed new system should be undertaken as an experiment, without prejudice to future arrangements.

61. During the twelfth session of the General Assembly, the Fourth Committee postponed consideration of the matter on the basis of a report of the Secretary-General that the fascicles had not been in use long enough to permit him to form a final judgement.

62. At the thirteenth session of the General Assembly, the Fourth Committee accepted the observations of the Secretary-General in his further report on the advantages of the new system with regard to comparative costs, facility of distributing smaller fascicles and better timing.

59/ G A (X), Suppl. No. 16 (A/2908), part one, paras. 62-64.
60/ G A (XI), Suppl. No. 15 (A/3127), para. 65.
61/ Figures represent United States dollars.
62/ G A (XI), Suppl. No. 15 (A/3127), paras. 66-68.
63/ G A (XI), Annexes, a.i. 35, p. 11, A/3619, para. 23.
64/ G A (XIII), 4th Com., 831st mtg., paras. 21-23.
65/ G A (XIII), Annexes, a.i. 35, p. 12, A/3903.
2. The collaboration of United Nations Councils and specialized agencies

a. RELATIONS WITH THE ECONOMIC AND SOCIAL COUNCIL AND WITH THE REGIONAL ECONOMIC COMMISSIONS

63. In a series of resolutions 66/ adopted during its third, fourth and fifth sessions, the General Assembly had established liaison between the Committee on Information from Non-Self-Governing Territories and the Economic and Social Council in the examination of information on Non-Self-Governing Territories.

64. In 1958 this collaboration was extended 67/ to the regional economic commissions of the Economic and Social Council, in connexion with the study of the effects of association with the European Economic Community.

65. By a draft resolution 68/ submitted in the Fourth Committee at the thirteenth session, the General Assembly would welcome the establishment of the Economic Commission for Africa as an important step towards further raising the levels of living in African Non-Self-Governing Territories. Two paragraphs were added to the draft resolution, 69/ whereby the General Assembly would express the hope that Member States responsible for the administration of Territories in Africa would apply for associate membership in the Commission on behalf of all the Territories situated in Africa, and would request the Secretary-General to transmit the resolution to the Economic and Social Council and the Economic Commission for Africa at their forthcoming sessions.

66. The text of the draft resolution referred to "all Territories"; a further amendment was introduced to include in the terms of the proposal the Trust Territories as well. This amendment was opposed on procedural grounds. It was stated that the Committee's agenda item was limited to Non-Self-Governing Territories and the Committee should not adopt a proposal which applied to Trust Territories. On the other hand, it was recalled that a precedent existed for such action; General Assembly resolution 746 (VIII), for example, dealt with the employment of international staff from both Non-Self-Governing and Trust Territories.

67. After further drafting changes, the Committee approved 70/ the second revised draft text and, by a separate vote, the inclusion of the reference to Trust Territories. This text was adopted by the General Assembly as resolution 1327 (XIII).

Decision

The General Assembly, by resolution 1327 (XIII), expressed the hope that all African Territories would apply for associate membership in the Economic Commission for Africa through the Member States responsible for their administration, and requested the Member States concerned to encourage and expedite such applications for associate membership.

b. RELATIONS WITH THE TRUSTEESHIP COUNCIL

66/ G A resolutions 220 (III), 321 (IV), 331 (IV), 333 (IV), 336 (IV), 444 (V); see Repertory, vol. IV, under Article 73, paras. 97-108.

67/ G A resolution 1330 (XIII).


70/ Ibid., para. 19.
C. COLLABORATION WITH THE SPECIALIZED AGENCIES

68. As noted in the Repertory, procedures for collaboration with the specialized agencies had been established by the General Assembly before 1950. In actual practice, the specialized agencies collaborated both with the Committee on Information from Non-Self-Governing Territories in the examination of summaries and analyses and with the Secretary-General in the preparation of reports called for by the Committee.

69. In 1956, during the discussion of the preparation of the Progress Report, a question was raised as to the form in which requests for collaboration should be addressed to the specialized agencies. A draft resolution before the Fourth Committee included a provision by which the General Assembly would invite the specialized agencies concerned to assist the Secretary-General in the preparation of the report. The direct invitation from the General Assembly to the specialized agencies was opposed on constitutional grounds since under normal procedure the General Assembly would request the Secretary-General to enlist the help of the agencies. It was pointed out, however, that in its earlier resolutions, the General Assembly had directly invited the co-operation of the specialized agencies. As recorded above (paragraph 41), the proposed provision was subsequently adopted as operative paragraph of General Assembly resolution 1053 (XI).

3. The creation of a committee to assist the General Assembly in the examination of information

**a. ESTABLISHMENT OF THE AD HOC AND THE SPECIAL COMMITTEE

**b. ESTABLISHMENT OF THE COMMITTEE ON INFORMATION FROM NON-SELF-GOVERNING TERRITORIES

C. RENEWAL OF THE COMMITTEE ON INFORMATION FROM NON-SELF-GOVERNING TERRITORIES

70. No new issues were raised in 1958, when the question of the renewal of the Committee on Information from Non-Self-Governing Territories was considered in accordance with the terms of General Assembly resolution 933 (X). A draft resolution which would continue the Committee for three years on the same basis as before was accepted in the Committee without preliminary debate, and was subsequently approved by the Fourth Committee and adopted by the General Assembly.

Decision

By resolution 1332 (XIII) the General Assembly decided to renew the Committee on Information from Non-Self-Governing Territories for a period of three years on the same basis as provided in resolution 933 (X), and decided that at its sixteenth session it would again consider the question of the renewal of the Committee.

**d. COMPOSITION OF THE COMMITTEE ON INFORMATION FROM NON-SELF-GOVERNING TERRITORIES

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71/ See section II B 1 a above.
72/ For example, G A resolutions 329-331 (IV).
4. Recommendations relating to Non-Self-Governing Territories

71. There was no change during the period under review in the practices adopted by the General Assembly in making recommendations on matters concerning Non-Self-Governing Territories. These procedures were described under the above heading in the previous Repertory studies of Article 73.

Scholarships for students from Non-Self-Governing Territories

72. In 1954, by resolution 845 (IX), the General Assembly had established procedures for offers of scholarships to students from Non-Self-Governing Territories. The following year the General Assembly asked the Secretary-General to prepare reports for its future sessions concerning the offers made and their use. These reports served as a basis for the General Assembly's review of the offers and their utilization in subsequent years. At the twelfth session, the General Assembly requested that Members should apply all possible speed in handling applications and asked the Secretary-General to provide assistance, where possible and as requested by Member States and applicants. At the thirteenth session, noting that the greater part of the scholarships remained unutilized, the General Assembly invited Administering Members to ensure use of the scholarships by students from Non-Self-Governing Territories, and to facilitate travel formalities. It also asked Members to consider the need to provide travel funds to prospective students. These points were reiterated subsequently, in a resolution which the General Assembly adopted at its fourteenth session. In addition, Administering Members were requested to give the offers the fullest publicity in the Territories.

Decision

By resolution 1154 (XII), the General Assembly requested Members that submitted observations on the qualifications of candidates, as well as Members that offered facilities, to consider the applications with all possible speed; and requested the Secretary-General to give such assistance as was possible and as might be sought by the Members concerned and by applicants.

By resolution 1331 (XIII), the General Assembly invited Administering Members to take all necessary measures, consistent with the interests and needs of the Non-Self-Governing Territories and their peoples, to ensure that scholarships and training facilities offered by Member States might be utilized by inhabitants of those Territories, and to assist persons who had applied for or who had been granted scholarships and fellowships, particularly in facilitating travel formalities. The General Assembly also requested Member States offering facilities to take into account the necessity of furnishing complete information about the scholarships offered and, wherever possible, the need to provide travel funds to prospective students.

Subsequently, by resolution 1471 (XIV), the General Assembly, in addition, requested all Administering Members that had not done so to give the fullest publicity in the Non-Self-Governing Territories under their administration to all offers of study and training facilities made by Member States.

73/ G A resolution 931 (X).
C. The determination of the Territories to which Chapter XI of the Charter applies

1. The question of the competence of the General Assembly to decide whether a Territory is or is not a Territory whose peoples have not yet attained a full measure of self-government

73. As has been reported, the General Assembly in a number of resolutions affirmed its competence in matters relating to the implementation of obligations arising from Chapter XI of the Charter. Until 1956, the issues which had given rise to this affirmation related mainly to the cessation of the transmission of information for Territories in respect of which an obligation had been already undertaken by the Administering Member concerned. However, during the discussion of factors which should be taken into account in deciding whether a Territory is or is not a Territory whose people have not yet attained a full measure of self-government, the point was made that if the General Assembly was competent to decide on Territories for which information should cease, then it was also competent to decide which were the Territories for which information should be transmitted. On the other hand, it was considered that since the General Assembly had accepted the enumeration of Territories by Administering Members in 1946, it followed that it had no competence to determine which Territories were Non-Self-Governing.

74. Following the admission of sixteen Members to the United Nations in 1955, the question arose in the Fourth Committee at the eleventh session of the General Assembly as to its competence to determine whether any newly admitted Member administered Territories on which information should be transmitted under Article 73 e.

75. The question was discussed in the Fourth Committee on the basis of a draft resolution which would establish an ad hoc committee to study the application of the provisions of Chapter XI of the Charter in the case of Members newly admitted to the United Nations and, in particular, to examine the replies to the Secretary-General's letter of 24 February 1956, by which the new Members were requested to inform him whether they were responsible for the administration of any Territories referred to in Article 73. The preamble of the draft resolution would recall that General Assembly resolution 66 (I) had named a number of Territories which were held to fall within the scope of Chapter XI of the Charter and that, by resolution 334 (IV), the General Assembly had considered that it was within its responsibility to express its opinion on the principles which had guided or which might in the future guide the Administering Members in enumerating the Territories for which the obligation existed to transmit information under Article 73 e.

76. In general, three views, similar to those recorded at the seventh session of the General Assembly, were put forward. One view held that it was within the exclusive competence of the Administering Member to determine when and to which Territories Chapter XI applied and whether an obligation existed to transmit information under Article 73 e. According to the opposite view, the General Assembly should determine
which were the Territories coming within the scope of Chapter XI. A third view was that there was a shared responsibility between the Administering Members and the General Assembly.

77. In support of the first view, it was pointed out that the States admitted before 1955 had not been asked to explain their position; by accepting the list of Territories enumerated by the Administering Members in 1946, the General Assembly had recognized that Member States had the right to determine on which Territories they should transmit information. The General Assembly could not abrogate this right. Moreover, examination of the replies would involve interpretation of the constitutions of Member States, which would represent discrimination against new Members and an infringement that the limitation of constitutional considerations on the transmission of information had been specifically provided in Article 73 of the Charter as a safeguard.

78. In support of the second view, it was maintained that under Article 10 it was within the competence of the General Assembly to set up a committee to study particular questions; by resolution 334 (IV) the General Assembly had asserted its competence regarding the determination of Territories to which Chapter XI applied. The action by the General Assembly in 1946 did not mean surrender of its right to decide on the obligations of Members under Article 73. In 1946 there had been no need to examine the replies since the Members known as colonial Powers had accepted the obligation to transmit information on Territories for which they were responsible. A statement by a Member that it did not administer any Non-Self-Governing Territories, however, had to conform to world opinion; if a statement was not supported by world opinion the General Assembly was entitled to examine it in the light of the list of factors adopted by the General Assembly in resolution 742 (VIII) for determining the Territories whose people had not yet attained a full measure of self-government.

79. This discussion again led to debate on the interpretation of the Charter. According to one view, the obligations undertaken under Chapter XI were unilateral; according to another, the Charter was a multilateral treaty and the General Assembly had the right to interpret its provisions. Other representatives were of the opinion that though the General Assembly had the right to interpret provisions of the Charter, the Member States alone could decide on their own responsibilities under the Charter; no Member State could be expected to renounce the right of determining the constitutional status of a Territory under its sovereignty. Against this view it was pointed out that the concept of sovereignty was not mentioned in Chapter XI and the Charter specified that the transmission of information was the obligation of Members "who have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government".

80. Certain drafting changes were made, and the Fourth Committee, by a roll-call vote of 35 to 33, with 4 abstentions, approved the draft resolution which would set up an ad hoc committee.

81. When this draft resolution came before the General Assembly, it was further argued that the proposal was discriminatory since it would, in effect, challenge the reply given by Portugal; this was the first time the General Assembly had questioned the reply of a Government, and it was a violation of the principle of national sovereignty contained in Article 2, paragraph 7 of the Charter. The reply of Portugal accorded with international law and the practice heretofore established by the United Nations itself, "based on the only legitimate interpretation of the Charter".

For discussion, see G A (XI), 4th Com., 615th-623rd mtgs.

82. Amendments 81/ were again submitted with a view to wording the draft resolution in more general terms. The amendments were withdrawn, 82/ however, when the General Assembly, by a roll-call vote of 38 to 34, with 6 abstentions, decided 83/ that a two-thirds majority was required because the draft resolution related to an important question involving interpretation of the Charter and the sovereign rights of States. The draft resolution was not adopted; 84/ the roll-call vote was 35 to 35, with 5 abstentions.

83. At the twelfth and thirteenth sessions of the General Assembly, the question of the obligation of Members under Chapter XI and the competence of the General Assembly in the matter was again raised.

84. Most of the arguments advanced during the eleventh session were repeated. 85/ Resolutions 66 (I), 222 (III) and, particularly, 742 (VIII) were cited as asserting the competence of the General Assembly in determining which Territories fell under Chapter XI. The view was expressed that Chapter XI brought the relations between the Administering Members and their Territories within the realm of international affairs, since the Charter laid down certain principles whose non-observance threatened international peace and security. This relationship could not be regarded as solely within the domestic jurisdiction of Member States.

85. In support of the view that it was solely within the competence of the Administering Members to decide on the application of Chapter XI, it was argued, particularly at the thirteenth session, 86/ that it was the sovereign right of Members to interpret their own constitutions and to determine the status of their Territories. Since the entire question was essentially one of interpretation of the Charter, several Members suggested that the International Court of Justice should be asked for an advisory opinion. No formal proposal, however, was submitted to this effect.

86. Subsequently, in 1959, during the fourteenth session of the General Assembly, no new arguments were advanced in the Fourth Committee in support of a draft resolution which would establish a special committee of six members to study the principles which should guide Members in determining whether or not an obligation existed to transmit the information called for in Article 73 e of the Charter. This proposal was approved by the Fourth Committee and was adopted by the General Assembly as resolution 1467 (XIV).

Decision

By resolution 1467 (XIV), the General Assembly, recalling that, by its resolution 354 (IV) of 2 December 1949, it had considered that it was within its responsibility to express its opinion on the principles which guided, or might in future guide, the Administering Members in enumerating the Territories for which the obligation existed to transmit information under Article 73 e of the Charter; recalling also that, by its resolution 742 (VIII) of 27 November 1953, the General Assembly had approved a list of factors to be taken into account in deciding whether a Territory was or was not a Territory whose people had not yet attained a full measure of self-government; noting that Member States had expressed differing opinions as to the application of the

81/ Ibid., p. 20, A/L.222.
83/ Ibid., para. 105.
84/ Ibid., para. 236.
85/ G A (XII), 4th Com., 687th-694th mtgs.; G A (XIII), 4th Com., 830th-832nd mtgs.
86/ G A (XIII), 4th Com., 830th-832nd mtgs.
provisions of Chapter XI to Territories whose peoples had not yet attained a full measure of self-government, including the obligation to transmit the information called for in Article 73 e of the Charter, considered that it would be desirable for the General Assembly to enumerate the principles which should guide Members in determining whether or not an obligation existed to transmit the information called for in Article 73 e of the Charter of the United Nations and decided to establish a special committee consisting of six members to study these principles.

87. When in 1959 the General Assembly agreed to the cessation of the transmission of information on Alaska and Hawaii, it again confirmed its competence to decide whether a Non-Self-Governing Territory had or had not attained a full measure of self-government.

88. A draft resolution submitted in the Fourth Committee, during the fourteenth session of the General Assembly, did not contain a statement on the competence of the General Assembly, but an amendment was submitted to add a preambular paragraph to that effect. As on previous occasions, this amendment was opposed by some representatives, who asserted that the General Assembly had no competence in this matter, and by others on the basis that it was unnecessary.

89. Representatives supporting the amendment pointed out that it merely followed the precedent of the General Assembly resolutions on Puerto Rico, on Greenland and on the Netherlands Antilles and Surinam; by communicating the pertinent information with respect to Puerto Rico to the Secretary-General, the United States had in fact given recognition to the competence of the General Assembly in this matter. This view prevailed, and the amendment was incorporated in the draft resolution which was subsequently adopted by the General Assembly.

Decision

In a preambular paragraph of resolution 1469 (XIV), the General Assembly bore in mind its competence to decide whether a Non-Self-Governing Territory had or had not attained a full measure of self-government.

**2. The transmission and examination of information on constitutional changes**

**3. The question of the definition of a full measure of self-government**

**4. The factors determining the attainment of a full measure of self-government**

**5. The possibility of the cessation of information for Territories still covered by the general principles of Article 73**

87/ G A resolution 1469 (XIV).
88/ A/C.4/L.632 (mimeographed).
89/ A/C.4/L.633 (mimeographed).
90/ G A resolutions 748 (VIII), 849 (IX) and 945 (X), respectively.
6. Procedures in the examination of cases of the cessation of the transmission of information

90. Procedures for the examination of cases concerning the cessation of the transmission of information had been laid down in General Assembly resolutions 222 (III) and 448 (V). Three cases were examined under these procedures. In each, the communications from the Governments concerned were first examined by the Committee on Information from Non-Self-Governing Territories. The Committee drew its own conclusions and submitted recommendations to the General Assembly, stating that the recommendations were without prejudice to any decisions that the General Assembly might take.

91. Following the adoption in 1954 of resolution 850 (IX), in which the General Assembly had further indicated that the communications concerning cessation should be examined with particular emphasis on the manner in which the right of self-determination had been attained, a draft resolution 91/ submitted in the Fourth Committee during the tenth session of the General Assembly would suggest a change in procedures so that communications should first be examined by the General Assembly.

92. This draft resolution was not discussed in the Fourth Committee that year, but was referred to the Committee on Information from Non-Self-Governing Territories at its 1956 session. 92/ The subject was taken up again in the Fourth Committee at the eleventh session, when the draft resolution submitted in 1955, during the tenth session, 93/ was reintroduced.

93. Under the terms of this draft resolution, the General Assembly (a) would decide that, notwithstanding the provisions of resolution 448 (V), communications relating to the cessation of the transmission of information in respect of a Non-Self-Governing Territory should be referred directly to the General Assembly; (b) would consider that the General Assembly should, as indicated in resolutions 742 (VIII) and 850 (IX), examine cases of the cessation of the transmission of information, with particular emphasis on the manner in which the right of self-determination had been attained and freely exercised; and (c) would consider that the General Assembly, as circumstances might make appropriate, should adopt such conclusions as it deemed fit, or should refer points for study to the Committee on Information from Non-Self-Governing Territories or should take other measures to reach conclusions in the interests of the inhabitants of the Territory concerned.

94. In support 94/ of this draft resolution, it was explained that examination of the communications from Governments relating to the cessation of transmission of information involved political and constitutional questions. In view of the limited terms of reference of the Committee on Information from Non-Self-Governing Territories, the communications should first be considered by the General Assembly, which could then decide on measures to be taken. Such a procedure would be flexible and would be in the interest of the Non-Self-Governing Territories. Rejection of the proposal would preclude the General Assembly from considering the communications in the first instance.

95. In the course of the debate which followed, representatives opposing the draft resolution again asserted that the General Assembly had no competence to decide on the

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92/ G A (XI), Suppl. No. 15 (A/5127), part one, paras. 72-86.
94/ G A (XI), 4th Com., 611th-613th mtgs.
cessation of the transmission of information. Against the proposal itself, moreover, it was argued that (a) the proposal raised a question of the division of competence between the General Assembly and the Committee on Information from Non-Self-Governing Territories, and (b) since the procedures adopted had proved satisfactory, there was no need for change; the proposed procedures would be more time-consuming.

96. In reply to these arguments, it was stated that though the procedures had worked well previously, situations might arise in which they might no longer be appropriate. Since the Committee on Information from Non-Self-Governing Territories had been appointed by the General Assembly, there was no question of a division of competence. Moreover, the new procedures would not eliminate the Committee's consideration of the communications but would facilitate its work, since the General Assembly could decide the particular points it wished to refer for study.

97. In view of the fact that the intention of the draft resolution was to establish a general procedure not restricted to the existing Committee on Information from Non-Self-Governing Territories, whose mandate would expire at the end of 1958, an amendment to the draft resolution was accepted; this would provide that the General Assembly might refer specific points for study to the Committee or any future committee which might be established.

98. The amended draft resolution was approved by the Fourth Committee and adopted by the General Assembly as resolution 1051 (XI). The operative paragraphs are reproduced below.

Decision

In resolution 1051 (XI), the General Assembly

"1. Decides that, notwithstanding the provisions of resolution 448 (V) of 12 December 1950, communications relating to cessation of the transmission of information in respect of a Non-Self-Governing Territory, transmitted to the Secretary-General by the Members concerned, should be referred directly to the General Assembly;

"2. Considers that the General Assembly should, as indicated in resolutions 742 (VIII) of 27 November 1953 and 850 (IX) of 22 November 1954, examine cases of the cessation of the transmission of information, with particular emphasis on the manner in which the right of self-determination has been attained and freely exercised;

"3. Considers that the General Assembly, as circumstances may make appropriate, should adopt such conclusions as it deems fit, or should refer points for study to the Committee on Information from Non-Self-Governing Territories or any such future committee which may be established, or should take other measures to reach conclusions in the interests of the inhabitants of the Territory concerned."

a. ALASKA AND HAWAII

99. During its fourteenth session, the General Assembly examined its first cases under the new procedure approved by resolution 1051 (XI). One case concerned the cessation of the transmission of information on Alaska and Hawaii.

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100. By letters dated 2 June and 17 September 1959, the Government of the United States informed the Secretary-General that, as a result of the admission of Alaska and Hawaii to statehood, the United States no longer intended to transmit information on these former Territories. In accordance with the terms of General Assembly resolution 222 (III), the United States Government also transmitted relevant documents on the constitutional change to the Secretary-General. Following the procedure established in resolution 1051 (XI), these communications were subsequently placed before the General Assembly at its fourteenth session.

101. Though the General Assembly considered that the manner in which Territories could become fully self-governing was primarily through the attainment of independence, it was observed in the Fourth Committee that the General Assembly had recognized in resolution 745 (VIII) that self-government could also be achieved by association with another State or group of States if the association was freely chosen and was on a basis of absolute equality. There was unanimous agreement that Alaska and Hawaii had attained a full measure of self-government equal to that enjoyed by all other self-governing constituent states of the United States. Moreover, the people of Alaska and Hawaii had fully exercised their right to choose their own form of government.

102. A draft resolution was introduced whereby the General Assembly would express its opinion that the people of Alaska and Hawaii had effectively exercised their right to self-determination and had freely chosen their new status; the General Assembly therefore would consider it appropriate that the transmission of information should cease. The draft resolution was approved by the Fourth Committee and adopted by the General Assembly as resolution 1469 (XIV); the operative paragraphs are reproduced below.

Decision

By resolution 1469 (XIV), the General Assembly,

"1. Takes note of the opinion of the Government of the United States of America that, owing to the new constitutional status of Alaska and Hawaii, it is no longer appropriate or necessary for it to transmit information under Article 73 e of the Charter of the United Nations in respect of Alaska and Hawaii;

"2. Expresses the opinion, based on its examination of the documentation and the explanations provided, that the people of Alaska and Hawaii have effectively exercised their right to self-determination and have freely chosen their present status;

"3. Congratulates the United States of America and the people of Alaska and Hawaii upon the attainment of a full measure of self-government by the people of Alaska and Hawaii;

"4. Considers that, owing to the circumstances mentioned above, the declaration regarding Non-Self-Governing Territories and the provisions established under it in Chapter XI of the Charter can no longer be applied to Alaska and Hawaii;

"5. Considers it appropriate that the transmission of information in respect of Alaska and Hawaii under Article 73 e of the Charter should cease."

96/ GA (XIV), Annexes, a.i. 36, p. 67, A/4115; ibid., p. 99, A/4226.
97/ GA (XIV), 4th Com., 981st-983rd mtgs.
98/ A/C.4/L.632 (mimeographed).
103. By a letter dated 29 March 1959, the Government of France informed the Secretary-General, concerning information transmitted under Article 73 e, that, "Except with regard to New Hebrides, where the existence of the condominium created a special situation, the French Government decided to stop transmitting this information as from 1957." In accordance with General Assembly resolution 222 (III), documents were attached relating to the status of the various Territories on which information was no longer being transmitted.

104. This information was subsequently placed before the Fourth Committee, during the fourteenth session of the General Assembly. Some representatives, though welcoming the constitutional advances made by the Territories under French administration, expressed the view that the Territories had not yet attained a full measure of self-government and it was therefore necessary for the General Assembly to take a decision on the cessation of transmission of information by France. Another view was that since the political status of these Territories was still in the course of evolution, the General Assembly should wait until the situation had been stabilized before taking a decision. No action was subsequently taken in the Fourth Committee on the communications from the Government of France nor by the General Assembly during the fourteenth session.

7. The resumption of the responsibility to transmit information

105. In 1949, when, under its new Constitution, educational, social and economic conditions in Malta were stated to have become the exclusive concern of the Government of Malta, the United Kingdom Government had ceased to transmit information on that Territory. Early in 1959, the Constitution of Malta was revoked. Since the conditions on which the cessation of information had been based were changed, the question arose in 1959 in the Committee on Information from Non-Self-Governing Territories as to the responsibility of the United Kingdom under Article 73 e in respect of Malta.

106. When the question was later raised in the Fourth Committee during the fourteenth session of the General Assembly, the representative of the United Kingdom stated that his Government acknowledged that since the transmission of information had ceased because of constitutional considerations referred to in Article 73 e, there was an obligation to resume the transmission of such information when constitutional considerations permitted. His Government therefore would resume transmission of information on Malta.

8. The determination of the Territories falling within the scope of Chapter XI and of the obligation to transmit information

107. As stated earlier, until 1956 the determination of the Territories to which Chapter XI applied had been discussed mainly in relation to the cessation of
Paragraphs 108-111

Article 73

information. The reverse situation, namely the determination of Territories on which the transmission of information should begin, arose only after the General Assembly admitted sixteen new Members in December 1955.

108. In 1956, the Fourth Committee had before it the replies by Members admitted in 1955 \(^{104}\) to a letter of the Secretary-General inquiring whether they administered any Non-Self-Governing Territories. The replies stated that these Members did not administer any Territories covered by Article 73 \(\varepsilon\) of the Charter. This led to questions in the constitutional status of certain Territories which had been Non-Self-Governing Territories in 1946, and the extent to which the peoples of these Territories had attained a full measure of self-government. In particular, information was asked concerning Angola and Mozambique; it was stated that world opinion considered them Non-Self-Governing Territories, since the majority of the inhabitants did not have an equal status with inhabitants in the metropolitan country.

109. In reply, the representative of Portugal stated that under its Constitution, Portugal was a unitary State, and Angola and Mozambique were overseas provinces with the same status, \(\text{de facto}\) and \(\text{de jure}\), as the provinces in Europe. The same laws applied in all provinces. The enjoyment of political rights was based on certain conditions, but these conditions were the same for all inhabitants. Portugal, therefore, did not administer any Territories covered by Article 73.

110. In the discussion which followed, divergent views were expressed on the obligation of Members under Chapter XI. In one view it was held \(^{105}\) that, since Article 73 \(\varepsilon\) specified that the transmission of information was subject to such limitations as security and constitutional considerations might require, it was not applicable if it conflicted with constitutional provisions, regardless of whether the Territories in question were or were not Non-Self-Governing Territories. In opposition to the preceding view, \(^{106}\) it was contended that obligations under the Charter took precedence over constitutional provisions; Chapter XI applied to Territories whose peoples had not yet attained a full measure of self-government, and the form taken by the national State was not necessarily relevant. In support of this view, it was recalled that constitutional considerations had not prevented New Zealand from transmitting information on the Cook and Tokelau Islands though they had been considered an integral part of New Zealand, nor had it prevented the United States from transmitting information on Alaska and Hawaii, both of which were Territories "incorporated in the Union". It was also argued \(^{107}\) that action taken by the United Nations concerning the cessation of information provided another illustration of the fact that Territories might essentially fall under Chapter XI whatever their constitutional relationship with the metropolitan countries.

111. A draft resolution was submitted at the eleventh session which would establish an ad hoc committee to study the application of Chapter XI in the case of the new Territories.

\(^{104}\) G A (XI), Annexes, vol. I, a.i. 34, p. 8, A/C.4/331 and Add.1 and 2. During the course of the discussions which followed, the representative of Spain explained that the fact that Spain had not replied to the Secretary-General's letter should not be construed as an attempt to avoid responsibility. On the understanding that a reply would later be forthcoming, the discussions at the eleventh session omitted reference to Spain.

\(^{105}\) G A (XI), 4th Com., 615th mtg., para. 5; see also A/C.4/347 (mimeographed).

\(^{106}\) G A (XI), 4th Com., 615th mtg., para. 7.

\(^{107}\) Ibid., para. 8. See, for instance, the discussion of the Malta case and of the Netherlands Antilles and Surinam case in the Repertory, vol. IV, under Article 73, paras. 266-277.
Members, and two amendments were introduced with a view to assisting the General Assembly in determining the Territories to which Chapter XI applied. One amendment suggested that the proposed ad hoc committee should arrive at a definition of the expression "Non-Self-Governing Territories" and should determine, taking into account the work of all similar committees previously established, the criteria by which a given Territory might be placed in this category. This amendment would also request the ad hoc committee, in the light of the definition arrived at, to review the list of Non-Self-Governing Territories set forth in resolution 66 (I) and to submit a new list of such Territories to the General Assembly, including those administered by one or more of the new Members.

Another amendment proposed that the ad hoc committee should "study the applicability of the provisions of Chapter XI of the Charter to such Territories as have not yet attained a full measure of self-government". Both amendments were, however, withdrawn because they were unacceptable to the sponsors of the draft resolution. As mentioned earlier, the draft was approved by the Fourth Committee but failed to obtain a two-thirds majority in the General Assembly.

In 1958, at the thirteenth session of the General Assembly, the Fourth Committee had before it replies from the Federation of Malaya and from Ghana, stating that they did not administer any Territories referred to in Article 73. The Committee also had before it a communication from the Government of Spain, dated 10 November 1958, stating that Spain did not possess any Non-Self-Governing Territories, since the territories subject to its sovereignty in Africa were, in accordance with the legislation then in force, considered provinces of Spain. Consequently, the Spanish Government did "not regard itself as affected by Article 73 of the United Nations Charter which refers to Non-Self-Governing Territories, of which there are, legally speaking, none within the Spanish administrative system".

Some representatives in the Fourth Committee questioned the legal basis of the reply. It was pointed out that action had been taken by the Government of Spain in August 1956 and January 1958 affecting the department administering the Spanish African Territories and changing Ifni and Spanish Sahara to provinces of Spanish West Africa. It was argued that the status of Non-Self-Governing Territories could not be unilaterally changed, since an obligation to the United Nations existed under Chapter XI.

The need to define the principles to be applied in determining obligations under Chapter XI was mentioned at the twelfth, and again at the thirteenth, sessions of the General Assembly. At both sessions, reference was made to this need in draft resolutions approved by the Fourth Committee in both sessions, but not adopted by the General Assembly. The draft resolutions would have established an ad hoc committee.
to study the obligation to transmit information under Article 73 e on the basis of a summary of opinions, to be prepared by the Secretary-General. In preambular paragraphs of both draft resolutions, the General Assembly would have considered "that it is desirable for the General Assembly, in conformity with resolution 33^ (IV), to express its opinion on the principles which underlie the enumeration of Territories for which the obligation exists to transmit information under Article 73 e".

116. The discussions on the obligations of Members under Article 73 e centred on the interpretation of the limitation which provides that the transmission of information is "subject to such limitation as security and constitutional considerations may require". In general, three different views were expressed. One view interpreted the phrase to mean that the limitation might arise from the constitution of a Member State, with the result that overseas territories of a State with a unitary constitution would be considered an integral part of the metropolitan country. A second view was that it referred to the constitutional advance of Territories; this interpretation had previously been held in cases of the cessation of information. A third view was that it referred to the nature of the information required. It was suggested that since the meaning was not clear, the International Court of Justice should be asked for an opinion on the interpretation of various provisions of Chapter XI of the Charter, including the meaning and scope of the "constitutional considerations" referred to in Article 73 e. No formal proposal to this effect was submitted, however.

117. In support of the first view, it was further argued that, since the entire text of Article 73 was addressed to Member States and those Members alone could accept the obligation to transmit information, the constitutional limitation obviously referred to the constitution of the Member State concerned. If the limitation had referred to the constitutions of Non-Self-Governing Territories, the responsibilities would have been assumed by the Territories. Since the responsibilities assumed under the Charter could not be separated from recognized rights, the Member States alone had the power to determine, in accordance with their own constitutions, the constitutional limitation which might exist.

118. The question of the interpretation of this phrase was again brought up at the twelfth session of the General Assembly. A draft resolution introduced in the Fourth Committee, but not adopted by the General Assembly, included a preambular paragraph which would have referred to the differing opinions expressed by Members concerning "the interpretation of the 'constitutional considerations' which may constitute a limitation on the transmission of information".

119. Subsequently, at its fourteenth session, the General Assembly adopted a proposal approved by the Fourth Committee, which was similar in substance to those it had not agreed on at the two previous sessions. By resolution 1467 (XIV), the General Assembly decided to establish a special committee to study the principles determining existence of an obligation to transmit information under Article 73 e.

Decision

In the operative paragraphs of resolution 1467 (XIV), the General Assembly

"1. Considers that it would be desirable for the General Assembly to enumerate the principles which should guide Members in determining whether or not an
obligation exists to transmit the information called for in Article 73 e of the Charter of the United Nations;

"2. Decides to establish a special committee consisting of six members, to be elected by the Fourth Committee on behalf of the General Assembly - three of whom shall be Members who transmit information under Article 73 e of the Charter and three non-administering Members - to study these principles and to report on the results of its study to the Assembly at its fifteenth session;

"3. Requests the Secretary-General to prepare for the use of this committee an account of the history of this matter, including a summary of the opinions on the subject which have been expressed by Member States in the past and of the relevant legal treaties on the interpretation of the Charter;

"4. Invites Member States to submit in writing to the Secretary-General, before 1 May 1960, their views on these principles, in order that the committee may take them into account."