



Monday, 25 February 1957,
at 10.30 a.m.

New York

CONTENTS

Page

Agenda item 63:
Question of West Irian (West New Guinea) (*continued*) 285

Chairman: Mr. Víctor A. BELAUNDE (Peru).

AGENDA ITEM 63

**Question of West Irian (West New Guinea)
(A/3200 and Add.1, A/C.1/L.173) (*continued*)**

1. Sir Percy SPENDER (Australia) said that, because of the ties of friendship existing between his country and Indonesia and a long record of co-operation in many fields between the two countries, his Government regretted the inclusion of the present item on the agenda of the General Assembly. The Australian delegation was convinced that that item had no real place among the many important matters which had engaged the attention of the Assembly during its present session. It also believed that the form in which the item had been presented might easily mislead Member States as to the real nature or consequences of the draft resolution (A/C.1/L.173) if it were adopted.

2. The draft resolution, which called, in effect, for negotiations under the auspices of the United Nations on what was called the question of West New Guinea, might seem unexceptionable on the face of it. It should, however, be noticed that the nature of the claim had not been specifically mentioned in the draft. But, as was quite clear from the statement of the representative of Indonesia (857th meeting), the claim was for the transfer of sovereignty over the territory of West New Guinea from the Government of the Netherlands to that of Indonesia. That was what the words "the question of West New Guinea" meant in that respect. The draft resolution was thus assuming that it would be the transfer of sovereignty which should be negotiated between those two Governments. The Australian delegation felt that the Assembly would be taking a very serious and unwarranted step if it adopted that draft.

3. Indonesia had repeatedly declared its desire to seek a peaceful solution of the dispute. What indeed Indonesia was seeking was "a peaceful solution" of its claim for complete transfer of sovereignty over the territory of West New Guinea. That had been Indonesia's goal, and all its efforts were directed towards that end. There should certainly be no objection to peaceful solutions of problems or disputes. It would, however, be setting a new standard if "peaceful solutions" were sought for disputes which had no foundation and which had arisen because one party had put forward a claim over the territory of another. Certainly, no Member State would be prepared to surrender a territory simply because another State had put a claim on it. What Indonesia

was seeking was indeed that the United Nations should assist it in the furtherance of its aims. As the representative of the Netherlands had pointed out (857th meeting), that would be in complete violation of the principles of the Charter.

4. The representative of Indonesia had expressed surprise at the interest taken by Australia in the matter of West New Guinea. It should, however, be noted that Australia had a cardinal interest in the whole area of New Guinea and in its future. Situated as his country was, it should not be surprising if Australia was so profoundly concerned with the issue of New Guinea. Recalling his statement at the ninth session (727th meeting), he said that he had pointed out even then that New Guinea represented the very key to Australia's defence and so Australia could never stand idly by when a question affecting the future of the island of New Guinea was before the United Nations. He had also stated then that Australia would view with the utmost gravity any plea that the United Nations should endorse the claim that the sovereignty of the western part of that island should be transferred. That still remained the view of Australia, of its Government and its people.

5. Recalling the consideration of the present item at previous sessions of the General Assembly, he said that at its ninth session (509th plenary meeting) the Assembly had not adopted a draft resolution (A/2831, para. 9) which had in effect recommended renewal of the negotiations between the Netherlands and Indonesia on the question of West New Guinea. At its tenth session, it had adopted resolution 915 (X), which had been merely of a procedural nature, and there had been no substantial discussion of the matter at all. That resolution merely expressed the hope that the talks which were then about to be held between the parties would be fruitful. It had then been agreed in advance that those talks would not concern the question of sovereignty over West New Guinea. He emphasized that while certain matters relating to New Guinea had been included in the agenda of those talks, the question of sovereignty had never come under discussion, as on that question the two parties had reserved their respective positions in advance. It would therefore be incorrect to state that the talks which had taken place between the Netherlands and Indonesia at The Hague and at Geneva early in 1956 had failed in respect to West New Guinea since it had already been decided in advance not to raise the issue at those talks. The interpretation which was being put upon the Assembly resolution 915 (X) was thus forced and untenable, and was designed to give colour to Indonesia's claim at the present session.

6. As far as he understood, Indonesia was basing its claims on anti-colonialism, legality and nationalism. Of those grounds, anti-colonialism and nationalism had remained fairly constant factors throughout the history of Indonesia's campaign to gain possession of the huge area of West New Guinea.

7. Indonesia's claim based upon "anti-colonialism" assumed that West New Guinea was already legally a part of the Republic of Indonesia and that the Netherlands was occupying it illegally. Obviously that was not the case. The real reason why Indonesia had introduced the question of anti-colonialism was because it wished to divert the attention of the Assembly from the juridical weaknesses of its case. Since it could not be established that West New Guinea was legally part of the Republic of Indonesia, the fact that the people of that area were under the colonial administration of the Netherlands had no relationship with the item before the Committee. The Australian delegation hoped that the Committee would not accept the argument of the representative of Indonesia, as it was completely irrelevant.

8. In reality, the anti-colonial issue came back to the question of the legality of Netherlands sovereignty over West New Guinea. It seemed strange that an argument should be made that it was colonialism if a European nation, acting in full accord with the provisions of the Charter, and even going beyond those provisions in promising self-determination in advance, exercised an administration over a backward people, but that it would not be colonialism if a non-European Government, having annexed the territory without the consent of its people, exercised such administration without being subject to any of the safeguards contained in the Charter.

9. With regard to Indonesia's arguments based upon "nationalism", the Australian delegation believed that any territorial claim could be presented as a nationalist aspiration, but because it was so presented it did not necessarily become sanctified. Indonesia's claim was nationalist in character in so far as it was a claim for the extension of Indonesia's boundaries. No support, however, could be given to a claim based merely on that ground. Moreover, it was doubtful whether the General Assembly was a proper forum for territorial claims of that kind. If the Assembly were to be so regarded, then that would present problems of great complexity to a number of Member States whose territories could also be liable to political campaigns for expropriation. It was obvious that such a development would not be desirable in the interest of proper working of the Assembly.

10. With regard to the legal basis for the Indonesian claims, he maintained that the First Committee was not the proper place where legal claims could be adjudicated. Perhaps with that in mind, Indonesia had repeatedly said that the dispute over West New Guinea was not a juridical one. But in his statement before the Committee, the representative of Indonesia had tried to establish that the Netherlands was illegally in possession of West New Guinea and that West New Guinea was legally part of the Republic of Indonesia. Thus, Indonesia had sought to make a political issue out of a legal claim. Legal claims of an international character could be submitted, not to the First Committee, but to the International Court of Justice, which was competent to deal with them. Indonesia had, however, refused to do so. There could be no reason for that refusal other than that Indonesia itself was not convinced of the legal validity of its case and was not sure whether an impartial court would uphold its arguments.

11. At the ninth session Indonesia had based its legal arguments on an interpretation of the Charter of the Transfer of Sovereignty of 1949 (S/1417/Add.1, ap-

pendix VII). Since then, Indonesia had annulled the Charter and no longer based its arguments upon it. Nevertheless it was necessary to take into consideration the Charter of the Transfer of Sovereignty in relation to other aspects of the Indonesian claim. Indonesia claimed that, on the basis of its Declaration of Independence of 17 August 1945, it had succeeded to all the territories previously held under the control of the Netherlands East Indies Administration. Besides the fact that that was a unilateral declaration, it must be remembered, as the representative of the Netherlands had already pointed out, that the Indonesian leaders at that time had had no thought whatever of including West New Guinea in the new Republic. Indonesia was, however, putting forward a legal claim, on the basis of that very Declaration, to all former Netherlands East Indies territories. Its argument was that, during the years between that Declaration and the signing of the Charter of the Transfer of Sovereignty in 1949, Indonesia had come to believe that the territory, over which sovereignty was in due course to be transferred, would include all the former territories of the Netherlands East Indies. Such a belief was unjustified and unfounded. The important and conclusive document was that which was finally agreed upon in 1949 between the authorized representatives of the two parties concerned. The Indonesian authorities themselves admitted that that agreement alone constituted the formal transfer of sovereignty over such territories as then became the United States of Indonesia, within the framework of the Round Table Conference agreements,¹ of which the Charter of the Transfer of Sovereignty had formed a part.

12. On 21 April 1956, the Indonesian Government had completely abrogated all the Round Table Conference agreements, including the Charter of the Transfer of Sovereignty. So far as the Republic of Indonesia was concerned, therefore, it had renounced all claim to draw title from an agreement which it itself had annulled. After the abrogation of that Charter and of all the Round Table Conference agreements, the Indonesian claims had come to rest on the shadowy contentions derived from the Declaration of Independence of 1945. According to the representative of Indonesia, after that Declaration, all that had remained to be done was to arrange for an administrative transfer of West New Guinea to Indonesia. If such were the case, then there would have been no need for the parties to have had a Charter of the Transfer of Sovereignty. It was obvious that the Declaration of 1945 had no legal basis and that was why the parties concerned had had to agree on a legal document. Thus, from a legal point of view, the actual provisions of the Charter of the Transfer of Sovereignty—which had expressly excluded sovereignty over West New Guinea—could not be affected by what might have been historical circumstances or by what might have been the expectations of one party to the final agreement before that agreement had been signed. The Charter of the Transfer of Sovereignty was the only legal basis, and that alone could be invoked if ever Indonesia were to submit its case to the International Court of Justice. However, by repudiating that Charter and all the Round Table Conference agreements, Indonesia had destroyed the legal foundation of its case. The Indonesian claim now rested merely on the 1945 Declaration of Independence—a declaration which had not

¹ See *Official Records of the Security Council, Fourth Year, Special Supplement No. 6*, document S/1417/Add.1.

even sought to cover West New Guinea and certainly could not form a legal basis for that claim.

13. Whatever might be the arguments in support of the Indonesian claim, the United Nations had to take into consideration primarily the interest of the people of West New Guinea. It was indeed surprising that the representative of Indonesia had made no reference to the principle of self-determination or to the question of the welfare of the people of that large area. With regard to the contention of the representative of Indonesia that the people of West New Guinea had exercised their right of self-determination in 1945, he would recall that Mr. Mohammad Hatta, a co-worker with President Sukarno for the independence of Indonesia, had said on 25 November 1949 that, with the exception of a very small group, the population of West New Guinea was incapable of expressing its political will. It would be appropriate to read, in that context, the statement of the Prime Minister of Indonesia on 2 September 1953 that his Government did not agree that Indonesia should previously consult the population of West Irian (West New Guinea) as to whether it was really prepared to accept association with Indonesia.

14. It should be remembered that the people of West New Guinea—Papuan—were entirely different from any of the people inhabiting the lands of the Republic of Indonesia. Under the Indonesian claim, those people would be separated from the rest of their own people inhabiting the rest of the island, and their political destiny might in vital respects be completely and finally compromised and foreclosed. It would indeed be a tragic day for the Papuans in all parts of New Guinea if the Indonesian claim were accepted. The Australian delegation hoped that the United Nations would not lend its support to any transfer of sovereignty over those people without their expressed will.

15. Turning to the thirteen-Power draft resolution (A/C.1/L.173), he said that the terms of that proposal implied that Indonesia had a claim in substance, law and procedure. In that respect he recalled that at the ninth session of the General Assembly a draft resolution (A/2831, para. 9) on the same question had failed to secure the necessary majority in the Assembly (509th plenary meeting) because that draft had also the implied claim in it to Indonesian sovereignty over West New Guinea. The Assembly had adopted resolution 915 (X) at its tenth session because it had been found to be non-prejudicial to the interests and positions of the parties concerned. Whereas in resolution 915 (X) the Assembly had noted that it had considered the item entitled "The question of West Irian (West New Guinea)", according to the present draft the Assembly would note that it had considered the question of West Irian (West New Guinea). But the very assumption of a "question" in that sense prejudged the issue, inasmuch as the so-called question was a one-sided claim by one party to absolute sovereignty over West New Guinea. Then the reference to "negotiations between the Governments of Indonesia and the Netherlands" in the third paragraph of the preamble of the draft must be presumed to be those referred to in the joint statement issued by the Government of Indonesia and the Netherlands on 7 December 1955 and, as the Australian delegation had already pointed out, the question of the sovereignty over West New Guinea had been expressly excluded from those negotiations. Thus, the present draft was seeking to build on a foundation which had never existed, even though the Indonesian

delegation might assert that the exclusion of the question of sovereignty from those talks was without Indonesia's consent. In the opinion of the Australian delegation the paragraphs of the preamble of the draft resolution presupposed a judgement which the Assembly had never taken and assumed a previous position which the Assembly had never endorsed.

16. The operative part of the draft resolution had suggested certain procedures which, in appropriate circumstances, might have been useful. The present case was not however of that nature. Moreover, no terms of reference had been laid down for the proposed good offices commission except that it would assist in negotiations between the parties concerned. But he asked how negotiations could develop out of a unilateral claim to sovereignty on the one side and the flat rejection of such a claim on the other. If the negotiations in question were the same as those referred to in the third paragraph of the preamble, then those negotiations had never included the question of sovereignty over West New Guinea. If some new negotiations were meant, then it was fruitless for the draft resolution to mention them without in some way formulating a basis for them, and as he had already stated, there was no basis for the claim of Indonesia to sovereignty over the territory of West New Guinea.

17. The United Nations would not be justified in taking such a step as that suggested in the draft resolution without first satisfying itself about the merits of the claim. The Australian delegation hoped that the draft resolution would be rejected as there was really no arguable case for the Indonesian claim. It also hoped that, in case a resolution of substance dealing with New Guinea were adopted, that resolution would also take into consideration the legitimate interests of Australia.

18. He reiterated the interest of his Government and people in the island and the people of New Guinea and added that Australia believed that in the course of time Indonesia would abandon what Australia considered to be an insupportable claim over West New Guinea and would thus remove the only cause of difference which marred the harmonious and friendly relations existing between the two countries.

19. Mr. GUNewardene (Ceylon) said that his country maintained the closest friendship with all the three countries principally interested in this issue. In recent years Indonesia and Ceylon had obtained their freedom at about the same time. Ceylon had had a very happy association with the Netherlands. With regard to Australia, that country and Ceylon were partners and fellow members of that great family known as the British Commonwealth of Nations.

20. West Irian presented a problem which had worsened the relations between Indonesia on the one side and the Netherlands on the other. The existence of the problem had even cast a shadow over the friendly relations between Indonesia and Australia. The question of West Irian had come up first before the Conference of the Prime Ministers of the Colombo Plan Powers, held at Bogor, Indonesia, in December 1954. At that Conference it was unanimously decided that the claim of Indonesia to West Irian was legitimate and well founded. The same subject had come up before the African-Asian Conference at Bandung in 1955, which represented the voice of two-thirds of the world and again a unanimous decision had been arrived at that the Indonesian claim to West Irian was legitimate and well founded. So, indirectly, the problem of West Irian not only affected the relations of Indonesia, the

Netherlands and Australia; it might and could affect the relations between the Asian and African nations on the one side and the colonial Powers on the other. Therefore, the problem was worthy of consideration by the Committee.

21. It had been maintained that West Irian was a distinct entity separate from Indonesia, but the facts did not prove that contention. Article 2 of the Charter of Transfer of Sovereignty described West Irian as "the Residency of New Guinea". It was evident that by "Residency" was meant an area looked after by a resident. It was also evident that the resident took his orders from the administrator of the province to which the residency was attached. In the case of West Irian the province happened to be the province of the Moluccas. The administrator of the Moluccas derived his authority in the past from the Governor-General in Jakarta, then known as Batavia. It followed that West Irian was a part of the Netherlands East Indies, nowadays known as Indonesia. Therefore, it was no separate entity, distinct from the Netherlands East Indies, or Indonesia. As a matter of fact, West Irian was part and parcel of the sultanate of Tidore. The sultanate of Tidore included the islands of East Indonesia and West Irian. The boundary of West Irian, on the other hand, had been decided upon by an agreement between the Sultan of Tidore and the Netherlands Government and the boundary was the meridian of 141 degrees E. longitude. That was the boundary of the territory of the Sultan of Tidore. That was a fact that the Government of Australia must recognize. The treaty signed by the Sultan of Tidore with the Netherlands Government in 1924 was confirmed in the year 1948. Therefore, the boundary was a valid boundary.

22. It had been stated that the people of that region were very different from the people of Indonesia. It could not be said, however, that the people of West Irian were closer to the Dutch than to the Indonesians. At any rate, they were of, if not the same, similar origins. On the ground that the West Irians were of a different ethnic origin than the people of Indonesia, Indonesia itself would have been split up into at least twenty-five parcels of kingdoms or republics. According to a statement by the Netherlands representative before the Security Council, in 1948 there were at least seventeen ethnic groups in Indonesia, and many of them were subdivided into smaller sub-groups.² So, the argument that the Papuans, the people of West Irian, were of a different ethnic group, was hardly relevant.

23. The argument that West Irian had been and was at present a part of Indonesia required that the term "Indonesia" be further explained. A comparison between the Netherlands Constitution of 1922 and the amendments thereto of 1948 made it clear that the terms "Indonesia" and "the Netherlands Indies" conveyed the same meaning and were intended to cover the same territory. There could be no doubt whatsoever with regard to that point. There was an offer of evidence to establish that fact. Article III of the Linggadjati Agreement of 25 March 1947 read as follows: "The United States of Indonesia shall comprise the entire territory of the Netherlands Indies." Furthermore, the agreement of 17 January 1948, which was entered into under the auspices of the United Nations Security Council's Committee of Good Offices on the Indonesian question stated: "Sovereignty throughout the Netherlands Indies is and shall remain with the Kingdom of the Netherlands until, after a stated interval, the Kingdom

of the Netherlands transfers its sovereignty to the United States of Indonesia."³ That sovereignty obviously was with respect to the whole territory. On 22 December 1948, Mr. van Royen had stated to the Security Council: "All parties agree that what used to be the Netherlands Indies should become an independent State as soon as possible."⁴

24. If words meant anything, there was no doubt that article 1 of the Charter of the Transfer of Sovereignty meant to convey the *de jure* and the *de facto* sovereignty of the territory known as Indonesia. In the words of that document: "The Kingdom of the Netherlands unconditionally and irrevocably transfers complete sovereignty over Indonesia to the Republic of the United States of Indonesia and thereby recognizes said Republic of the United States of Indonesia as an independent and sovereign State." Certainly, the Netherlands Government which had unequivocally stated that Indonesia included the whole of the Netherlands Indies right up to that point and which had always included West Irian as a part of the Netherlands Indies and Indonesia, could not have meant anything but to convey every part of the territory of Indonesia including West Irian. At that point, however, there appeared to be a different opinion with regard to the status—the political status as it was then described—of West Irian. For the first time, the Netherlands Government, for understandable reasons, discovered the fanciful argument that West Irian was not quite the same as the Netherlands Indies. With due respect to the Netherlands Government, he felt constrained to say that that was a gross breach of faith. Confronted by that situation, the Indonesian people thought it preferable to obtain at least something, rather than keep the whole issue indefinite for a long time. It insisted on a one-year limit for the consideration of the question of West Irian, hoping that wiser counsels would prevail and that the Netherlands Government would keep its pledged word and honour the pronouncements it had made officially again and again during the preceding period.

25. But the Dutch insisted on further negotiations on New Guinea, and at the same time began to advance moral considerations for their continuing to hold the territory. Mr. Gunewardene felt, however, that, on the basis of humanitarian considerations, the Dutch were really not competent to look after the interests of the people of West Irian. He drew the attention of the Committee to the very candid and frank statements of the members of the Netherlands Parliamentary Mission which had visited West Irian recently. What they had reported was that education there was totally inadequate, that there was discrimination on the basis of race, that the sanitary and labour conditions were bad. In addition, there was even the evidence of the Australian Administrator of the Trust Territory of New Guinea, who had spoken of deplorable conditions in West New Guinea. There was also the evidence of disinterested persons—Australian and Dutch journalists, and other people—who had visited that area. Their findings indeed constituted a sad commentary.

26. The representative of Australia had complained that Indonesia had not spoken of its plans regarding the population of West Irian. When the Dutch had left Indonesia, barely 7 per cent of the people were literate, after centuries of Dutch occupation. The record of the Indonesian Government was that at present 60 per cent

² *Ibid.*, Third Year, No. 132, 388th meeting.

³ *Ibid.*, Special Supplement No. 1, document S/649/Rev.1, appendix VIII, para. 1.

⁴ *Ibid.*, No. 132, 388th meeting.

of the people were literate, after only a few years of Indonesian administration. Certainly, those who had been able to do that gigantic task would also be able to educate the people of West Irian, knowing as they did their customs, their ways and their manners, and understanding their feelings better than their Western patrons. They were fully competent to discharge that task in the name of humanity. The Indonesian record of health was equally impressive. Malaria had been practically eradicated and yaws, tuberculosis and other diseases were fast disappearing. Life expectancy had increased. For the very humanitarian reasons to which the representative of Australia had referred, there was a case for examination by the Committee as to whether human beings could be left in the charge of those who until recently had not looked after their vital interests.

27. The question had also been asked whether there was any political connexion between West Irian and Indonesia. There was an unchallenged statement, a statement which the delegation of Ceylon was sure the representative of Indonesia could maintain, that in 1946 there was a West Irian movement for Indonesian independence. It was true that not all the members were enlightened people, but in spite of Dutch repression, it continued to exist and it was still in existence even in 1948. The record showed a membership of 2,000 West Irians. West Irian was also the grave of many a national Indonesian leader. Therefore, there was more than a human interest that Indonesia could take in West Irian.

28. The views expressed by the Indonesian Government were also shared by many Dutch people themselves. The representative of Indonesia had placed before the Committee the views of eminent Dutch scholars, politicians and members of Parliament. He had placed before the Committee the views of Dutch intellectuals and of Dutch nationals resident in Indonesia. There were other people also engaged in civilizing the indigenous population; they were the Dutch churchmen. They expressed views which were the same as those of Indonesia. There was the Moluccan Protestant Church—there was the Roman Catholic Church. What they said in unequivocal terms was that West Irian was a part of Indonesia. Even the Government of the Netherlands did not seem very proud of the annexation of West Irian to the Kingdom. The process of annexation had started in 1952, but it was not until 1956 that Parliament had ratified it. Even the representatives of the Dutch people were slow to accept such position. It took a long while before even the Netherlands Government made up its mind. There was no doubt, judging from official statements made, that the Netherlands Government would itself welcome the intervention of some friendly nations or of the United Nations in the solution of the trouble that now existed.

29. The view of many economists might also be repeated. There were many men of repute in the

Netherlands who held that the continuance of Dutch rule would only mean the impoverishment of the Netherlands Government. It would only cause losses to the Dutch economy without any compensation. The Dutch were now spending 60 million guilders for the benefit of the engineers, the civil servants and possibly a few employees of mixed blood who created a lot of trouble in West Irian for the Netherlands Government and the indigenous inhabitants. That did certainly not measure up to the high purposes of that Government.

30. That being the case, it would hardly be surprising if the General Assembly expressed the view that a stage had come when the relations that existed between the Indonesian and the Netherlands Government should improve, and that for such a purpose negotiations should be set up and a good offices commission should be appointed by the Assembly to bring about a solution to the problem.

31. The delegation of Ceylon was of the opinion that, in order to bring about some kind of *rapprochement*, there was no need to be so legalistic as the representative of Australia had been in saying that there were no terms of reference for the commission. What Ceylon wanted was a different thing. It wanted two nations to meet and discuss the common problem. The two Governments, meeting together, might find some kind of *rapprochement*. With the passing of years, with the old scars forgotten, with all bitterness vanishing, it was more than likely that the points of view of both nations might be brought closer together in the light of humanitarian considerations. They would probably even be able to discover an intervening stage before the final transfer of power to Indonesia, in keeping and consistent with the intentions of the Netherlands Government. There might be found a common understanding of the problem, or the problem might be solved by giving the territory the status of a Trust Territory.

32. The delegation of Ceylon was not advancing a proposition; it was merely saying that there were many ways in which a question might be discussed. In the interests of humanity, in the interest of those 730,000 unfortunate people who had not seen the light of civilization, if some kind of *rapprochement* was possible, if some way was discovered by which both the Indonesian Government and the Netherlands Government could discover a plan which would ensure their safety, their prosperity, their health and their well-being, it would indeed be a great day for the United Nations. The delegation of Ceylon felt that there was today such a frame of mind on both sides. The restraint and moderation with which the representative of Indonesia pleaded his case, was a token of that genuine feeling of desire for co-operation; and the expressions of the Dutch people, official and unofficial, also revealed a similar state of mind.

The meeting rose at 1.10 p. m.