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Fifteenth special session
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VERBATIM RECORD OF THE FIFTEEN HUNDRED AND FORTY-FIRST MEETING

Held at Headquarters, New York,
on Thursday, 16 December 1982, at 3 p.m.

President: Mr. POUDADE (France)

Opening of the special session

Adoption of the agenda

Report of the Secretary-General on credentials

Letter dated 18 November 1982 from the Permanent Representative of the United States of America to the United Nations addressed to the Secretary-General, containing a request for a special session of the Trusteeship Council to organize and dispatch a mission or series of missions to observe plebiscites in Palau, the Marshall Islands and the Federated States of Micronesia

Examination of petitions listed in the annex to the agenda and related to item 3 of the agenda:

Hearing of petitioners

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The meeting was called to order at 3.35 p.m.

OPENING OF THE SPECIAL SESSION

The PRESIDENT (interpretation from French): I declare open the fifteenth special session of the Trusteeship Council.

First of all I should like to welcome the participants in this special session of the Trusteeship Council: the delegations of the United States, the United Kingdom, the Soviet Union and France. I note that most of the representatives in those delegations are veterans of Trusteeship Council affairs and United Nations affairs generally, many of them having already taken part in sessions of the Council. However, allow me to welcome the new participants, Mr. Krutogolov, Mr. Berman and my compatriot, Mrs. Cocheme. I should like also to say how pleased we are to find Mr. Abebe here with us again as Secretary of the Council. He is the memory of the Council, as we were made aware during our visit to Micronesia. We can count on his efficiency and that of the Secretariat as a whole. We can count also on all the members of the Trusteeship Council, whose experience in its affairs is necessary for the accomplishment of our tasks.

I should like to pay a tribute here to Mr. Djermakoye, Under-Secretary-General for Political Affairs, Trusteeship and Decolonization, who is unable to be with us today because, as members know, he will conclude his term of office with the United Nations in a few days. Everyone here will share my feelings of respect for him and, I would add, affectionate admiration for the way in which he has conducted the affairs of his Department, thus assisting the process of the self-determination of many Territories which subsequently became Member States of the United Nations. His perfect knowledge of the various subjects with which he dealt, his unfailing courtesy and his abilities as a negotiator have been unanimously recognized both in the United Nations and in the Permanent Missions. I am sure I speak for all the members of the Council when I ask Mr. Rifai to convey this message to Mr. Djermakoye and to express our sadness that he is leaving.

(The President)

As we are all aware, this fifteenth special session is a particularly important one for the future of our friends in Micronesia. I am convinced that each delegation will make a useful and effective contribution to the work of the session.

ADOPTION OF THE AGENDA

The PRESIDENT (interpretation from French): I draw the attention of members of the Council to the provisional agenda of the fifteenth special session, contained in document T/1846. If there are no comments, I shall take it that the agenda is adopted.

The agenda was adopted.

REPORT OF THE SECRETARY-GENERAL ON CREDENTIALS

The PRESIDENT (interpretation from French): I should like to inform the Council that the Secretary-General has still not received the credentials of all the members. Therefore, if there are no objections, I would suggest that this agenda item be considered at our next meeting.

It was so decided.

LETTER DATED 18 NOVEMBER 1982 FROM THE PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL (T/1844), CONTAINING A REQUEST FOR A SPECIAL SESSION OF THE TRUSTEESHIP COUNCIL TO ORGANIZE AND DISPATCH A MISSION OR SERIES OF MISSIONS TO OBSERVE PLEBISCITES IN PALAU, THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA

The PRESIDENT (interpretation from French): The representative of the United States wishes to speak at this stage of the meeting, and I now call on him.

Mr. SHERMAN (United States of America): My delegation is most pleased that the Council has agreed to the convening of a special session to hear our request for the organization and dispatch of missions to observe plebiscites in Palau, the Marshall Islands and the Federated States of Micronesia on the future political status of those states.

Let me briefly outline the events in the ongoing process of self-governance and self-determination under the Charter and the Trusteeship Agreement which have caused us to present this request. Since the forty-ninth session of the Council, convened on 17 May 1982, the United States has essentially concluded negotiations with the Governments of Palau, the Marshall Islands and the Federated States of Micronesia on a proposed future political status and a future political relationship between each of them and the United States, upon the termination of the strategic trusteeship established by the United Nations under Articles 82 and 83 of the Charter, known as the Trust Territory of the Pacific Islands.

(Mr. Sherman, United States)

Specifically, the Personal Representative of the President of the United States for Micronesian Status Negotiations signed documents known as Compacts of Free Association, together with a series of related agreements, with the President of the Republic of the Marshall Islands on 30 May 1982; with the chief negotiator for the Republic of Palau on 26 August 1982; and with the chief negotiator for the Federated States of Micronesia on 1 October 1982. Copies of the signed documents have been forwarded in recent weeks to all members of the Council and to the Council secretariat.

The signature of the Compacts made it possible for the four signatory Governments to begin the process of public approval which the Compacts themselves envisage. That process involves consideration of the signed documents by the Government of each of the parties, in accordance with its constitutional processes, and submission of the documents to the electorate of each of the Micronesian jurisdictions in a plebiscite constituting an act of self-determination.

Our particular concern here today is with the matter of the plebiscites. It will be recalled that the Permanent Representative of the United States to the United Nations, Ambassador Jeane J. Kirkpatrick, **stated** in her message to the Secretary-General requesting this special session:

"These documents are now being committed to a process of consideration and approval by each of the four signatory Governments in accordance with their constitutional processes and by the voters of Palau, the Marshall Islands and the Federated States of Micronesia by plebiscites in which the voters will be invited either to approve the Compact of Free Association or to ask their Government to negotiate independence or a **closer relationship with the United States.**

"The Administering Authority and the Micronesian Governments envisage that this process will lead to the termination of the trusteeship. It has long been their wish that this important act of self-determination should be conducted under the observation of the United Nations, and they so agreed in 1978. The Trusteeship Council followed such a procedure in sending a mission to observe the act of self-determination carried out in the Northern Mariana Islands in June 1975.

(Mr. Sherman, United States)

"In carrying forward the process of self-determination, the United States as Administering Authority is continuing to observe and implement Article 76 b of the Charter of the United Nations, which provides that the basic objectives of the Trusteeship System are 'to promote the political, economic, social, and educational advancement of the inhabitants of the Trust Territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each Territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each Trusteeship Agreement' and article 6 of the Trusteeship Agreement for the Trust Territory of the Pacific Islands." (T/1844)

It will also be recalled that the 1978 "Statement of Agreed Principles for Free Association" adopted by the negotiators for the United States and the peoples of Micronesia contained the following statement:

"The agreement of free association will be put to a United Nations-observed plebiscite".

The negotiators recognized four and a half years ago that plebiscites on the agreement of free association would constitute important acts of self-determination and, as a consequence, should receive the scrutiny of the international community.

In the period since the respective signatures of the Compact, the United States has consulted with each of the other signatory Governments about the most convenient date for the plebiscite in its jurisdiction and about the voter information programme which will precede the plebiscite in that jurisdiction.

I am pleased to report that the United States and the Republic of Palau have agreed on 10 February 1983 as the most convenient date for the plebiscite in Palau. I am equally pleased to report that in September the Republic of Palau began a vigorous and objective information programme for its citizens about the choices from the full range of political status options, including negotiations on independence, that will be presented to them in this plebiscite. The information programme has included the

distribution of the signed agreements in English, Palauan and two other local languages; video-taped explanations of free association and alternate political status options, such as independence, presented at public meetings throughout Palau; and numerous radio and television broadcasts each day.

The United States is currently engaged in consultations with the Governments of the Marshall Islands and the Federated States of Micronesia and expects within a matter of weeks to reach agreement with them as well on dates and other matters dealing with preparations for the plebiscite, after which the United States, in its capacity as Administering Authority, will agree upon the dates of the plebiscites with the Governments of those two jurisdictions.

Consequently, my Government requests that this special session of the Trusteeship Council authorize the sending of missions to observe the plebiscites in Palau, the Marshall Islands and the Federated States of Micronesia. My Government envisage that the first such mission would arrive in Palau several days in advance of the actual plebiscite balloting on 10 February 1983, so that it might have an opportunity to study the voter information programme and to meet with interested persons and groups in Palau, as well as to observe the actual balloting and the counting of the votes. We would envisage that you, Mr. President, upon advice from the Administering Authority and the Governments concerned with the setting of subsequent plebiscite dates, and in consultation with the other members of the Council and the Secretariat, might then establish the timing of the subsequent missions to the Marshall Islands and the Federated States of Micronesia.

As evidence of the concurrence of the Government of Palau in this request and of Palau's eagerness to receive such an observer mission, I should like to read from a telegram which President Remeliik addressed to you, Mr. President, and of which my Government received a copy as Administering Authority:

(Mr. Sherman, United States)

"Dear Mr. President:

"The United States as Administering Authority has informed the Government of Palau that the Trusteeship Council has agreed to convene a special session on 16 December to consider the Administering Authority's request for the dispatch of an observer mission to witness the plebiscite on the Compact of Free Association in Palau.

"The people and Government of Palau are honoured to be the first jurisdiction to conduct its plebiscite.

"As you are aware, the plebiscite in Palau is scheduled ... and a voter information programme has been in progress since last September so as to ensure that voters are fully informed of all the issues present in the plebiscite.

"The people and Government of Palau fully recognize the importance of this act of self-determination and its historic nature.

"In keeping with one of the most important principles of free association, it is our strong desire that the plebiscite be witnessed by members of the international community whom we trust, and who would be able to testify to its fairness and legitimacy.

"Accordingly, it is our hope that the Council will accede to the request of the Administering Authority and dispatch an observer mission.

"It will be our pleasure to receive such a mission and I can assure you its members will have full and free access to all elements of opinion within our society, to the voter information programme, and to the conduct of the balloting."

The telegram is signed "Haruo I. Remeliik, President".

(Mr. Sherman, United States)

Finally, my Government notes that the Council has on occasion in the past included in the membership of visiting missions - particularly those designated to observe plebiscites and referendums -- representatives of States which were not themselves members of the Council. In view of the importance of the acts of self-determination which are about to take place in the three Micronesian entities, the United States would very much welcome the inclusion in these observer missions of other States of the Pacific region. If this idea finds favour with the Council, my Government would request that you, Mr. President, undertake consultations with States of the Pacific region and ascertain their willingness to join member States of the Council in furnishing observers for the plebiscites.

The PRESIDENT: (interpretation from French): The representative of the United States mentioned the telegram from President Remeliik. I wish to inform the Council that it will be issued as a document in due course.

EXAMINATION OF PETITIONS LISTED IN THE ANNEX TO THE AGENDA (T/1846/Add.1) AND RELATED TO ITEM 3 OF THE AGENDA:

HEARING OF PETITIONERS

The PRESIDENT: (interpretation from French): As members of the Council are aware, requests have been received for hearings at this special session from the International League for Human Rights, the Focus on Micronesia Coalition and the National Council of Churches of Christ in the United States of America, contained respectively in documents T/PET.10/203 and T/PET.10/204. Those requests have been granted in accordance with rule 80 of the rules of procedure of the Council. The petitioners are here and I understand they are ready to speak. If I hear no objection I shall now invite the petitioners to take their places at the petitioners' table.

At the invitation of the President, Mr. Roger S. Clark (International League for Human Rights) and Father William Wood and Sister Barbara Glendon (Focus on Micronesia Coalition) took places at the petitioners' table.

The PRESIDENT (interpretation from French): I call first on Mr. Roger Clark, of the International League for Human Rights.

Mr. CLARK: I appear before the Council on behalf of the International League for Human Rights, a non-governmental organization in consultative status with the Economic and Social Council. As the Council will know, the League has addressed it on numerous occasions over the years expressing our concerns about the future of the Trust Territory of the Pacific Islands. I am here today to express our disquiet at what appears to be unnecessary haste in arranging the plebiscite in Palau, in breach of the often-expressed principle that the plebiscite should take place simultaneously in each of the three entities, and at the failure of this Council to take a much more central role in the organization of the plebiscite.

First I shall deal with the question of haste. What one might call the Compact package - that is, the Compact and its related agreements - is an extremely complex set of documents. It represents a thick wad of paper. It presents some very difficult political choices. Moreover, there are considerable difficulties even for experts in working out the effect of, for example, the interrelationship between the Compact, the Agreement regarding Jurisdiction and Sovereignty of Palau over its Territory and the Living and Non-Living Resources of the Sea, the Palauan Constitution and the provisions of the recently concluded law of the sea treaty. This awkwardness is compounded by the Administering Authority's negative view of the last-named treaty. The Agreement between the Government of the United States and the Government of Palau regarding Radioactive Chemical and Biological Substances plainly gives the United States rather more power than does section 314 of the Compact. It represents a significant but not totally clear modification of that provision.

In this respect I should add that just a few moments ago I received in this chamber a copy of the official ballot for the plebiscite which is to take place in the Republic of Palau. Question (b) to be asked of the voters reads as follows:

(Mr. Clark)

Do you approve the agreement under section 314 of the Compact which places restrictions and conditions on the United States with respect to radioactive chemical and biological materials?"

I would submit that that is an unfair statement of the issue arising pursuant to section 314 and the related agreement. It is true that in some respects the related agreement limits the powers of the United States; in other respects it expands the rights of the United States pursuant to section 314. I would suggest that the form of the ballot should be amended so as to reflect more fairly that fact and also to reflect the fact that constitutional provisions of the Republic of Palau are being modified by the results of question (b).

One fears, in fact, that the Compact and its related documents now look like something designed by one of the more unscrupulous insurance companies; what is given on the front page - the Compact - may be taken away by the small print in the related agreements. The agreement on capital improvement funds is still very recent; yet it may prove to be one of the most important parts of the deal for the Palauans.

My question is whether the voters of Palau are yet in a position to make an informed judgement on such complex issues. It is true that most of the documents have now been translated into the Palauan language; but we are dealing with a society whose traditions are oral rather than written. Much more appears to us to be required by way of grass-roots discussion. We would suggest that the time may not be ripe for a plebiscite in Palau before the middle of 1983, which we understand is now a likely time for the plebiscites in the Marshalls and the Federated States.

Secondly, I refer to the principle of simultaneity. Many statements have been made in this Council on the need for all plebiscites to occur at the same time. On 18 May 1981, for example, Daniel J. High, then Acting High Commissioner, referring to the pending policy review of the Compact being carried out by the new United States Administration, said:

(Mr. Clark)

Without prejudicing the outcome of this policy review I can reiterate our previous statement that any plebiscite on future political status will be carried out uniformly and simultaneously throughout Palau, the Marshall Islands and the Federated States of Micronesia, and that the plebiscite will be preceded by a fair, objective and comprehensive public information programme covering all alternatives.'

Section 412 of the Compact as signed by Palau on 26 August of this year duly incorporates the principle of simultaneity; yet it is now being abandoned. The principle of simultaneity has been of some significance in the earlier practice of this Council. It has already been breached in the case of the referendum leading to the establishment of the Commonwealth of the Northern Mariana Islands.

(Mr. Clark)

The Administering Authority's hasty actions at that time contributed to doubts as to whether that arrangement complied with the relevant norms of General Assembly resolution 1541 (XV). Simultaneity is designed to remove the suspicion of divide-and-rule actions by the administering Power. Furthermore, voter education and United Nations supervision can, we believe, be more effective if carried out in all three entities at the same time. Simultaneity is an important principle, the departure from which requires adequate justification. Such justification has not been given.

Thirdly, there is the question of United Nations involvement in the plebiscite. At previous sessions of the Council, we expressed the view that the Council had been breaking with the precedent set by prior cases concerning the involvement of the Council in referendums in Trust Territories. We drew a distinction between a relatively fleeting involvement, which we called "observation", and a substantial presence over a period of time, which we called "supervision".

Prior to the unfortunate case of the Northern Mariana Islands, in each previous instance in which a political status of less than total independence was being considered, the United Nations always supervised rather than observed plebiscites involving Trust Territories.

Thus, in particular, in the case of British Togoland and the British Cameroons, where union with neighbouring countries was contemplated, the General Assembly appointed a plebiscite commissioner. That commissioner worked with the Secretariat staff and the Administering Authority in conducting a plebiscite. We regret that something along the line of those examples was not done in the case of the Northern Marianas, and we regret that something less is apparently being planned for Palau and the other remaining parts of the Territory. With a delay until the middle of the year and a simultaneous plebiscite in all parts of the Territory, it would be possible to organize a more significant United Nations presence.

(Mr. Clark)

We appreciate the fact that the agenda of this session is limited to the sending of a mission to participate in the Palau plebiscite. We shall no doubt have some detailed comments to make concerning the Compact package at a later time.

Be that as it may, the gravamen of our complaint at this point is haste. We respectfully urge that no plebiscite take place until the middle of 1983 and that it take place simultaneously in each of the three entities, with a strong United Nations presence, including United Nations participation in the preparatory work.

The PRESIDENT (interpretation from French): I call on Father William Wood of the Focus on Micronesia Coalition.

Father WOOD: We thank the President and the other members of the Council for granting the request of our organization, the Focus on Micronesia Coalition, to appear before the Council today. We do appreciate its desire to expedite the business at hand - namely, to decide on the dispatching of a visiting mission to the Trust Territory to observe the plebiscite on the future status of the Territory. We will thus be as brief as possible.

We come here today because we are concerned as United States citizens that our Government and the United Nations Trusteeship Council may be co-operating in the setting up of a premature plebiscite date for Palau. Only a week ago, as the Trusteeship Council was planning this session, the announced date was 11 January. It has now been changed to 10 February. Apparently, other groups and individuals also had reservations about the timeliness of the plebiscite, and a month's extension was thus granted. We seriously question whether this extension is sufficient.

We know that it is not an easy task to ascertain when a people has had enough time to receive complete information and to discuss with each other the implications of a set of agreements which took 13 years to negotiate. They are very complex documents, which in some parts elude the expertise of some of our consultant lawyers.

(Father Wood)

Yet these agreements will determine not only the future political status of Palau but also the direction of its economic development and the degree and nature of its co-operation with one of the major military Powers in the world. Areas covered include storage, transit and overflight arrangements for radioactive chemical and biological substances, communications and the extent of marine sovereignty - to name just a few items contained in the Compact of Free Association and the subsidiary agreements.

We know that it is also not an easy task to determine when there is sufficient understanding among Micronesians regarding all the political options, including independence, to allow them freely to choose their future status. A prudential judgement nevertheless needs to be made concerning the setting of the plebiscite date.

We have consistently testified in these chambers about our concern regarding the political education programme throughout Micronesia. The Trusteeship Council also remarked, in its conclusions and recommendations dated June 1962, that it

"remains concerned about the generally slow pace of the political education programme in preparation for the plebiscite."(T/L.1229, p.5, para.49)

We know that others believe that since the agreements were signed in Palau on 26 August and the education programme began in September, Palau's voting date - 10 February - is not precipitous. Within the past week, however, we have heard that the education programme begun in Palau is going "slowly and poorly". The people have not participated intimately in the negotiations and are not well prepared for the upcoming vote.

Three factors may be contributing to the feeling of unpreparedness. First, the agreements signed in August between the United States and Palau had major changes from earlier editions which had been initialed by the respective Governments. For example, the extension of the term of the Compact from 15 to 50 years is a significant change, the implications of which need serious study.

(Father Wood)

Secondly, the subsidiary agreement regarding construction projects in Palau has two uncompleted sections: annex A, which lists and describes the construction projects to be completed by the United States; and annex B, which lists the execution and completion dates as well as the methods of construction to be used. Negotiations on these items, which have serious environmental and economic development implications, were held as recently as the end of November.

Finally, the traditional form of decision-making among the people of Palau is a consensus process. That process needs time to be successful. It is our prudential judgement that the 10 February voting date is premature.

We are also seriously concerned that if 10 February remains as the plebiscite date in Palau, there will not be a simultaneous plebiscite throughout Micronesia. The Compact of Free Association signed by each Government explicitly states that

"the plebiscite shall be called jointly by the Administering Authority of the Trust Territory of the Pacific Islands and the other Governments signatory to this Compact and shall be conducted simultaneously under uniform, fair and equitable standards in Palau, the Marshall Islands and the Federated States of Micronesia....".

We believe this is a sound piece of the Compact and should be adhered to. Since it is our understanding that the trusteeship will not be terminated until all three nations have voted, we can see no justifiable reason to go ahead with a vote in Palau which may well be precipitous. Clearly, the other entities are not contemplating such an early date.

Thus we come before the Trusteeship Council at this session to ask it to give serious consideration to its responsibility as trustee in this matter. In this regard, we respectfully submit some questions for its consideration during its deliberations. Is this just a routine session to assign a visiting mission, or is there more at stake? What is the purpose of observing the political education campaign and the voting? If the Council should find that the people do not have sufficient understanding and/or freedom to vote, is there any recourse? Should the vote be simultaneous throughout Micronesia, as prescribed in the very document which is under consideration? Is independence as an option being fairly presented to the people as required by the United Nations documents on Trust Territories? How will the decisions the Council takes at this session be in the best interests of the Micronesians?

(Father Wood)

Mr. President, thank you for granting us this opportunity to address the Trusteeship Council. This petition is submitted on behalf of the Focus on Micronesia Coalition, the members of whose Executive Board include: myself; Dr. William Alexander, Assistant Academic Dean at Upsala College; Dr. Patricia Rumer, Oceania Secretary for the United Church Board for World Ministries, United Church of Christ; Reverend Edwin Luidens, Director of the Office for East Asia and the Pacific of the National Council of Churches, United States of America; Reverend Dr. Michael Hahm, Pacific Affairs Division of the United Methodist Church; and Sister Barbara Glendon, Staff Consultant for the Focus on Micronesia Coalition.

The PRESIDENT (interpretation from French): I should like to thank the petitioners for their statements.

Mr. OLEANDROV (Union of Soviet Socialist Republics) (interpretation from Russian): The Soviet delegation listened with great attention to the statement made today by the representative of the United States, the Administering Authority, and at a further stage in the work of our Council we intend to put forward our point of view on the proposals and the observations that were made.

We also listened carefully to the statements made by the petitioners, which we feel are very interesting and important. We take it that their statements will be contained in the verbatim records of the Trusteeship Council, but apparently these will not be ready for distribution today or tomorrow. Therefore we should like to ask the Secretariat to see to it that we receive the texts of these statements by the end of the day, so that we may speed up the work of the Council and bring its work to a successful conclusion.

The PRESIDENT (interpretation from French): I think the Secretariat could make photocopies of the statements of the petitioners for distribution to those Member States that wish to familiarize themselves with them.

The petitioners withdrew.

The PRESIDENT (interpretation from French): I should like to inform members of the Council that a draft resolution is in the process of preparation and will be ready for introduction at our meeting tomorrow afternoon.

The meeting rose at 4.15 p.m.