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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Summary record of the 7th meeting

Held at Headquarters, New York, on Tuesday, 22 June 2010, at 10 a.m.

Chairman: Mr. St. Aimee (Saint Lucia)

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The meeting was called to order at 10.20 a.m.

Adoption of the agenda

1. *The agenda was adopted.*

Question of Western Sahara (A/AC.109/2010/11)

2. **The Chairman** drew attention to the working paper on Western Sahara prepared by the Secretariat (A/AC.109/2010/11).

3. **Mr. Nuñez Mosquera** (Cuba) said that the people of Western Sahara had been fighting to assert their right to self-determination for more than 40 years. The United Nations had repeatedly stated that the conflict in Western Sahara was an issue of decolonization that fell under General Assembly resolution 1514 (XV) and was, therefore, the direct responsibility of the United Nations. As confirmed by the more than 40 resolutions adopted by the United Nations since 1963, the future could be decided only by the people of Western Sahara, freely, without interference or conditions.

4. Four rounds of negotiations had been held under the auspices of the Secretary-General. The parties must continue to strive to find a solution that would guarantee the self-determination of the Sahrawi people, based on agreements that were compatible with the purposes and principles of the Charter of the United Nations and resolution 1514 (XV).

5. The Sahrawi people needed the support of the international community. Despite its modest resources, Cuba was contributing to their development, especially in the field of education: there were more than 400 Sahrawi students in the Cuban education system.

6. **Mr. Valero Briceño** (Bolivarian Republic of Venezuela) said that he wanted to make his country's commitment to the self-determination of Western Sahara a matter of record. The basic principles enshrined in the Venezuela Constitution must also be respected for the Sahrawi people, who had been fighting heroically for approximately four decades to assert their right to self-determination, freedom and independence.

7. The Bolivarian Republic of Venezuela had extended diplomatic relations to the Sahrawi Arab Democratic Republic and maintained friendly and cooperative ties with it. He hoped that, with the support of the United Nations, the Sahrawi people

would be able to exercise their inalienable right to self-determination. For that to happen, negotiations must enter a more intensive phase, leading to the implementation of the various Security Council resolutions. However, talks would only be successful if they were guided by the purposes and principles of the Charter of the United Nations and by General Assembly resolution 1514 (XV) and other pertinent resolutions.

8. It was the hope of the Bolivarian Republic of Venezuela that the will of the Sahrawi people would become reality, in a peaceful manner, through a referendum on independence. To that end, it welcomed the idea of the Special Committee designating a commission to visit the Territory as soon as possible.

Hearing of petitioners

9. **The Chairman** said that, in line with the Special Committee's usual practice, petitioners would be invited to address the Special Committee and would withdraw after making their statements.

10. **Mr. Boukhari** (Frente Popular para la Liberación de Sagüía el-Hamra y de Río de Oro (Frente Polisario)) said that Western Sahara had been officially colonized by Spain in 1884 when Africa had been shared out at the Berlin Conference. Over the years, the United Nations, the Organization of African Unity (later, the African Union) and the Non-Aligned Movement had reaffirmed their full support for the inalienable right of the Sahrawi people to self-determination and independence, to be exercised through a referendum organized and supervised by the United Nations.

11. Western Sahara's neighbours had supported that right and in 1970 had pressed Spain to expedite the decolonization of the Territory. After initially joining the regional and international consensus and taking concrete steps towards the implementation of the principle of self-determination in the Territory under its administration, Spain had entered a secret agreement with Morocco and Mauritania which had led to the invasion, occupation and sharing out of Western Sahara and its natural resources.

12. Never before in the history of decolonization had previously colonized and oppressed peoples become colonizers and oppressors. The action had been an attack on the United Nations and had called into question the Organization of African Unity's principle

of its members maintaining the borders that were in place when they became independent.

13. The Sahrawi people had fought the new colonizers. Mauritania had ended hostilities with the Frente Polisario in 1979, but Morocco, instead of following that example, had occupied the area previously in Mauritanian hands. By resolution 34/37, the General Assembly had deeply deplored the extension of that occupation to the Territory recently evacuated by Mauritania. The United Nations had called Morocco's presence in Western Sahara a military occupation and had urged Morocco to join in the peace process and enter into direct negotiations with the Frente Polisario, the representative of the people of Western Sahara, to arrive at a ceasefire and a referendum on self-determination.

14. Morocco had finally agreed to the United Nations and Organization of African Unity's settlement proposals, endorsed in Security Council resolution 690 (1991). A mission to the Territory had been authorized in order to organize a referendum on independence. Although it had not opposed to a referendum, Morocco later would try to replace self-determination with the principle of a so-called mutually acceptable political solution.

15. The United Nations Mission for the Referendum in Western Sahara (MINURSO) had arrived when the ceasefire had come into effect. The Territory had been divided provisionally into two zones, one occupied and one liberated, separated by a wall, 2,000 km long, which continued to be protected by 7 million mines. The United Nations had started the process leading up to a referendum with the preparation of the list of voters, after overcoming all the obstacles put in its path by Morocco, which wanted the Moroccan settlers, transferred in two enormous waves to the Territory, to participate in the referendum.

16. The message Morocco had sent was obvious: the United Nations must either accept the principle of a fraudulent referendum or there would be no referendum. That in effect was what had happened in 1992, 1998 and 2000, the United Nations having been unable to conclude the process because it had been rejected by Morocco.

17. In 2004, Morocco had said that the referendum proposed in the Baker Plan was no longer acceptable because it called into question Moroccan sovereignty over Western Sahara, which Morocco had started

calling its southern province. Nobody in the Special Committee or in international organizations had recognized such a claim.

18. Thus, 18 years had passed and the referendum promised by the United Nations had not been held. Morocco had been stalling in the belief that certain friends on the Security Council, especially France, would grant it impunity, and nothing had been able to overcome its intransigence. Clearly, Morocco hoped to involve the Security Council in a General Assembly matter and, through realpolitik, to legitimize its proposal of autonomy in a framework of Moroccan sovereignty. It had brought new arguments and excuses to bear, such as its role in the international fight against terrorism, in order to win friends on the Security Council. Morocco had used that bargaining chip in order to be able to claim in return the permanent annexation of Western Sahara.

19. The members of the Special Committee knew, of course, that forcing the Sahrawi people to give up their right to independence would betray the principle of self-determination contained in General Assembly resolution 1514 (XV) and defined more precisely in resolution 1541 (XV).

20. There was no evidence that Morocco was going to waver in its belief that its bilateral relations with a permanent member of the Security Council would cause the United Nations to fail in its efforts to decolonize the last African Territory on the agenda of the Special Committee. Indeed, Western Sahara had become the symbol of a prolonged failure that could have been avoided. However, the current situation, obtained through force and a thirst for territory, must not be accepted as a *fait accompli*.

21. In the 1950s, Morocco had claimed huge expanses of land in the region. Although in 1969 King Hassan II had opted for a change of position and had expressed support for the independence and self-determination of Western Sahara, all hope of peace had ended with the invasion in 1975.

22. It was time for the Special Committee to resume its visits to the Territory to inform itself about the situation there. It should also obtain information on Western Sahara from the occupying Power, which had refused to submit reports. All the countries of the region had formerly been colonies or protectorates of European Powers. Western Sahara was alone in having been denied the opportunity to build its own future.

23. **Mr. Loayza Barea** (Plurinational State of Bolivia) wanted to know what steps the Secretary-General's Personal Envoy would have to take to reinvigorate the process that would lead to the full implementation of Security Council and General Assembly resolutions and the independence of the Sahrawi people.

24. **Ms. Hernández Toledano** (Cuba) asked for an update on the peace negotiations being coordinated by the Secretary-General's Personal Envoy and wondered what the expectations were for the immediate future.

25. **Mr. Hermida Castillo** (Nicaragua) asked what the Special Committee could do to provide concrete support to the Envoy in his peace efforts.

26. **Ms. Anzola Padrón** (Bolivarian Republic of Venezuela) asked what role MINURSO had played and what obstacles it had faced in concluding its mandate.

27. **Mr. Boukhari** (Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente Polisario)) said that the solution, agreed to a long time ago by all the parties concerned, was a referendum on independence. That process had been diverted owing to an attempt by the occupying Power to legitimize an unacceptable situation. The Personal Envoy had said that informal talks with the parties were necessary until it was clear that progress was possible, a position that had not yet been reached despite the talks held in Austria in 2009 and in the State of New York in 2010. The Envoy was preparing to travel to meet with the Group of Friends of Western Sahara, to examine the possibility of a further round of informal negotiations.

28. The Frente Polisario believed that only a referendum on independence would lead to a peaceful solution to the problems of Western Sahara.

29. Turning to the role of the Special Committee, he said it was imperative that it should remain involved until Western Sahara had obtained its independence and that it should use all the means at its disposal for that purpose, including visits to the Territory. Visits would confirm the colonial nature of the conflict.

30. As far as MINURSO was concerned, he regretted having to say that the Mission had become a failed operation. No referendum had been held and there had been no monitoring of human rights. There was a real risk of MINURSO being used to protect the status quo.

31. **The Chairman**, speaking in his capacity as Permanent Representative of Saint Lucia, said that the Special Committee should liaise with the Personal Envoy to ensure an exchange of information between the Security Council and the Special Committee and to devise a programme of work that would help the parties to agree on a way forward. In his capacity as Chairman, he would look into the matter and would report back on his progress.

32. **Mr. Cousiño** (Chile), supported by **Mr. Hermida Castillo** (Nicaragua), said that, in the course of the Second International Decade for the Eradication of Colonialism, only one Territory had been removed from the list of Non-Self-Governing Territories, and that had not been thanks to the Special Committee's efforts. He suggested that talks should begin on the possibility of celebrating a third international decade. The Special Committee must not give up; with the energy of its new members, further efforts could be made during a third decade.

Question of New Caledonia (A/AC.109/2010/17)

33. **The Chairman** drew attention to the working paper on New Caledonia prepared by the Secretariat (A/AC.109/2010/17).

Hearing of petitioners

34. **The Chairman** said that, in line with the Committee's usual practice, petitioners would be invited to address the Committee and would withdraw after making their statements.

35. **Ms. Machorro** (Front de libération nationale kanak socialiste (FLNKS)) said that the path taken by New Caledonia, sometimes described as an example for decolonization processes, had been a difficult one. First, there had been uprisings, wars and killings. But thanks to the Matignon Accords, there had been progress towards a free, financially independent and economically viable country, governed by and for a people that was finally in charge of its own fate. The decolonization process under the Nouméa Accord would lead New Caledonia to full sovereignty.

36. There had been a devolution of power from France to New Caledonia in specific areas. A citizenship unique to New Caledonia, the precursor to nationality of a future sovereign State, had been recognized. The collegiate and supportive Government

had been founded on dialogue and consensus, and on the struggle of the Kanak people.

37. However, geographical, social and economic inequalities remained in a country where an overdeveloped southern province monopolized resources in order to further extend its influence contrasted with a developing northern province and the services-based Loyalty Islands. New Caledonian society continued to suffer inequalities and injustices as a result of its colonial heritage.

38. The rapid pace of development had attracted private interests, which could jeopardize the public policies that favoured the emancipation of the local populations. In addition, the many European immigrants could destabilize the existing society. There had been delays in the implementation of some core provisions of the Nouméa Accord, such as the adoption of identity symbols, the devolution of powers, the training of citizens to assume those powers and the institution of citizenship — delays that had prevented citizens from voting in local elections and from having priority access to employment opportunities.

39. In international relations, France was using New Caledonian territory to support its military policy towards the States in the Pacific region. The devolution of sovereign powers, including defence, must lead to genuine involvement by New Caledonia in France's military policy in the Pacific.

40. For the FLNKS, progress towards the independence of the country under the Nouméa Accord was not proceeding as planned. However, there was a willingness to overcome the challenges posed by New Caledonia's innovative and constructive approach to decolonization and to allow its peoples to exercise their right to self-determination.

41. There must be a regular assessment of the public policies pursued under the Nouméa Accord. Their impact on the emancipation of the Kanak people would be measured on an annual basis, and where necessary adjustments must be made. There must also be an extension of the period allocated for the eradication of colonialism, not only for the Kanak people but also for the Mahoi of French Polynesia, who must recover their dignity.

42. The FLNKS had decided to take up the 1987 draft Kanaky Constitution to define its foundations. It would appreciate assistance in the form of legal expertise to

finalize that framework for the sovereignty of New Caledonia.

43. **Mr. Nayasi** (Fiji) said that while he was aware of the positive developments since the previous year's consideration of the question and the efforts made by France, more had to be done. All the parties involved must continue to promote a framework for peaceful progress towards an act of self-determination, safeguarding the rights of all sectors of the population.

44. **Ms. Hernández Toledano** (Cuba) asked for more information on the social and economic inequalities in New Caledonia and wondered whether they were the reason for the slow implementation of the Nouméa Accord.

45. **Mr. Aisi** (Papua New Guinea) said that the progress made in New Caledonia was satisfactory. However, yet more had to be done, and his delegation and the other delegations of the Melanesian Spearhead Group, which recently had undertaken a ministerial-level visit to Nouméa, noted the need for a greater emphasis on development to assist the Kanak population. In acknowledging the time and effort the administering Power had devoted to that question, he drew attention to a meeting to be held on 24 June 2010 in Paris related to the Nouméa Accord.

46. **Ms. Machorro** (Front de libération nationale kanak socialiste (FLNKS)) said that the main aim of the 1988 Matignon Accords had been to address imbalances between the south, where economic development was concentrated, and the north and islands. In terms of social inequalities, attendance rates for high school education in the north and the islands were very poor compared to the south. The south accounted for 85 per cent of total household income, compared to 11.1 per cent in the north and 3.9 per cent in the Loyalty Islands. The average income of households in the south was 1.9 times greater than it was in the north and 2.3 times greater than it was in the islands. Ninety-five per cent of homes in the south had running water, compared to 60 per cent in the north and only 25 per cent in the islands. Ninety-five per cent of homes in the south were connected to the electricity grid, compared to 77 per cent in the north, and a far smaller percentage in the islands. Efforts would be made to close those gaps.

Requests for hearing

47. **The Chairman** drew attention to the requests for hearing contained in aides-memoires 12/10 and 13/10 relating to the question of the United States Virgin Islands and the questions of the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations, respectively. He recalled that the Committee had already approved a number of requests relating to the questions of Guam and Turks and Caicos Islands. In the absence of any objection, he took it that the Committee agreed to approve the requests.

48. *It was so decided.*

Questions of American Samoa, Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Guam, Montserrat, Pitcairn, Saint Helena, the Turks and Caicos Islands and the United States Virgin Islands (A/AC.109/2010/2, 4-10 and 12-14; A/AC.109/2010/L.10)

49. **The Chairman** drew attention to the working papers prepared by the Secretariat on the 11 Non-Self-Governing Territories contained in documents A/AC.109/2010/2, 4-10 and 12-14.

Hearing of petitioners

50. **The Chairman** said that, in line with the Committee's usual practice, petitioners would be invited to address the Committee and would withdraw after making their statements.

Guam

51. **Ms. Miles**, speaking in her personal capacity as a Mariana Islander and as a member of Women for Genuine Security, urged the United Nations to advance the protection and fulfilment of the Chamorro people's right to self-determination, which was being threatened and undermined by the continued avoidance of the issue and the recent actions of the United States. The United States Navy's plans included the destruction of acres of coral reef and the building of firing ranges on previously pristine land. There would also be a massive population boom, which the Government of Guam would be expected to support. The Environmental

Impact Statement written by the United States Department of Defense indicated that a consequence of building an "unsinkable aircraft carrier" would be that Guam's main fresh water source would dry up. Military Powers must be held accountable for their actions and be made to stop spending billions of dollars to pursue policies that would result in the unleashing of environmental disasters. She urged the Committee for its support in demanding that the United States Department of Defense should take no further action in its plans to continue militarizing the Mariana Islands; neither the land nor the sea could bear the burden of such militarization, and the people were not willing to sacrifice the health, safety and future sustainability of their communities and ecosystems.

52. Even as the oil spill in the Gulf of Mexico was wreaking its devastation, the United States continued to move ahead with its plans, largely unknown to the masses, to destroy even more pristine habitats. The people of Guam were still suffering the consequences of the nuclear tests in the region 50 years previously and the ill effects of hundreds of toxic dumping sites. The negative impact of the United States continual engagement in war and forward military action had long been visible to the Mariana Islanders and now were becoming discomforting to more and more people elsewhere.

53. The working paper on Guam (A/AC.109/2010/14) was inadequate and was biased in its utilization of corporate, federal and military sources that consistently reaffirmed the perspectives of the United States. The United Nations must examine Non-Self-Governing Territories on a case-by-case basis, and so should send a visiting mission to better understand the situation in Guam. Work would continue at the local level to inform communities of their rights, resources permitting, but the United Nations and the administering Power should invest in an educational campaign to ensure an unbiased decolonization process. In that regard, she reiterated how critical it was for steps to be taken to protect the land and resources, and to assist Guam in achieving the maximum possible level of economic self-reliance, environmental protection, and social and educational development.

54. **Ms. Cristobal** said that, as a Chamorro and a professional psychologist, she welcomed the convening of the Pacific regional seminar on decolonization in New Caledonia in May 2010. After thanking the

Special Committee for its work in decolonizing almost 100 Non-Self-Governing Territories, she expressed her fervent hope that Guam could soon join their number, in spite of the challenges resulting from its strategic military importance to the United States as the administering Power.

55. It had been well documented that colonized and marginalized communities suffered from a range of mental health issues as a result of their socio-political and sociocultural oppression. Statistics showed that the Chamorro people were dying and suffering at a disproportionate rate compared to citizens of the mainland United States. Guam had a disproportionately high number of problems related to depression, anxiety, alcohol and drug use, and violence. Such problems were a result of the cultural and social deterioration of families and neighbourhoods since colonization. Plans for the hypermilitarization of Guam would exacerbate those problems. As the administering Power of Guam for over six decades, the United States must bear the responsibility for the Island's tragic invisibility, which had resulted in inadequate public health resources.

56. In 2005, the media had reported that some 7,000 United States Marines would be transferred to Guam, but the United States Department of Defense had refused to provide any further information pending the release of the draft Environmental Impact Statement in November 2009. The United States had had five years and spent over \$85 million to prepare its extensive document detailing the destruction of the human and physical environment of Guam; the resource-poor island people had then been given only 90 days to respond. Six months after the release of the impact statement, the local government was still struggling even to get a commitment of funds from the United States to mitigate the anticipated impact on the island's water, power and sewer infrastructure and seaport facilities. The Special Committee should study the document outlining the plans of the United States, which directly violated numerous international human rights instruments. The subjection of a Non-Self-Governing Territory to injustice, domination and exploitation constituted a denial of the people's fundamental human rights and was an affront to world peace and cooperation. The administering Power was mandated to promote, strengthen and diversify an independent economy and to promote the social development of the people; yet, it had already initiated militarization plans that would further

bind Guam's economic dependence to its own. Furthermore, the transfer of close to 80,000 new residents over the next four years directly threatened the social and cultural development of the people.

57. The United Nations mandated that all necessary measures should be taken to protect and conserve the environment against degradation. However, the United States planned to dredge a large area of coral reef in Guam's only natural deep harbour. United Nations mandates clearly stated that the United States should continue to transfer land to the original landowners and to transfer surplus federal land back to the Government of Guam, but the United States military had claimed that it needed 40 per cent more land, in addition to the one third of the island that it already held. The land that it intended to take included sacred areas and a national historic preservation site. Even though the United States Environmental Protection Agency had given the Environmental Impact Statement its lowest rating and rejected the Department of Defense's militarization plans, there had been no indication of change. Neither had there been any indication that the United States would adhere to its international treaty obligations in its activities in Guam. Unless the Special Committee took action on the issue of the hypermilitarization of Guam, it would remain a colony and the people would continue to suffer irreparable harm.

58. In conclusion, she urged the Special Committee to take a number of actions: to unequivocally declare that the current militarization of Guam constituted a major impediment to the implementation of the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples; to unequivocally declare and reaffirm that, as a Non-Self-Governing Territory, Guam had a status separate and distinct from the Territory of the administering Power, which would continue until the Chamorro people of Guam had exercised their right to self-determination; and to reaffirm that the Chamorro people of Guam had the right to freely determine, without external interference, their political status and to pursue their economic, social and cultural development, a right which the administering Power was duty-bound to respect in accordance with the provisions of the Charter of the United Nations. She also urged the Special Committee to take formal steps to engage with the United Nations Permanent Forum on Indigenous Issues, bearing in mind that the Economic and Social Council had

formally recommended that a seminar be held specifically to examine the plight of the indigenous peoples of the remaining Non-Self-Governing Territories; and to take formal steps to request a visiting United Nations mission to Guam as soon as possible, in view of the hypermilitarization that was under way.

59. **Ms. Gilgoff**, reading out a statement by Mr. Vicente Cabrera Pangelinan, Senator in the Guam Legislature, said that the people of Guam wanted to resolve their political relationship with the United States before ceding any more control of their homeland and the rights of their people. It was imperative that the Special Committee should advance the process of self-determination for the native inhabitants of Guam, since the recent decisions taken by the administering Power were diluting their right to self-determination day by day. The practice of increasing the population of a Non-Self-Governing Territory ran contrary to the principle of protecting the process of decolonization, and it diluted the rights of the native inhabitants.

60. Senator Pangelinan's office was in the process of registering the native inhabitants of Guam and their descendants in order to identify those vested with the right to take part in the self-determination process. Furthermore, he had sponsored legislation to accept the registration rolls of participants in the land trust programme, which had the same eligibility criteria as the decolonization registry. The Special Committee must use all the means at its disposal to ensure that the administering Power complied with the Senator's request for financial and technical resources to deliver a programme that would educate the native population on their right to self-determination and the decolonization options before a plebiscite vote was taken.

61. The inalienable right of the people of Guam to self-determination must be upheld in the face of the threat posed by United States military expansion. In that regard, the Committee should send a visiting mission to Guam to examine the progress of the decolonization process and affirm the wishes of the Chamorro people for a decolonization plebiscite.

62. **Ms. Diaz** (Fuetsan Famalao'an) said that the members of her organization were concerned about the plans for the increased militarization of their island home, and its effect on the social infrastructure of the

community and the livelihoods of the women and children. She urged the Committee to hold a hearing in Guam, so that members could see for themselves the low standard of living of many of the Chamorro people and the segregation and racial and economic disparity in Guam.

63. She made a number of recommendations for action by the Special Committee. The Committee should: give top priority to the inalienable right of the Chamorro people of Guam to self-determination, in view of the administering Power's massive plans for militarization; cooperate with other United Nations bodies and agencies on behalf of the indigenous people of Guam and their quest to exercise their inalienable and inherent right to self-determination; arrange for an investigation into the compliance of the administering Power with its treaty obligations under article 73 of the Charter of the United Nations and its obligations to promote the economic and social development and preserve the cultural identity of the Territory, in accordance with General Assembly resolutions 1514 (XV) and 1541 (XV); recommend that the General Assembly adopt a resolution requesting a United Nations visiting mission to Guam in order to examine the impact of the United States military; and recommend that the General Assembly adopt a resolution reaffirming that the question of Guam was one of decolonization, which remained to be completed by the Chamorro people.

64. She drew the attention of the members of the Committee to a document prepared by her organization containing its response to the United States Department of the Navy's draft Environmental Impact Statement, which had been distributed in the meeting room and which she urged them to read.

65. For well over a century, the national security of the United States had impeded the human security of the people of Guam, who continued to witness the deterioration of their health and resources, as their island and seas were subjected to military testing, storing, training and dumping. In the light of previous experience, it was hard to believe that the United States Department of Defense would prioritize the best interests of the indigenous people of Guam in its massive militarization of the island. There should be no further militarization of Guam unless the people understood and freely consented to the real and irreversible implications for their safety, health, environment, culture and political status.

66. **Ms. Santos** (We Are Guåhan) said that the organization she represented had been formed in order to read and critique the draft Environmental Impact Statement on behalf of the local community, which was largely unfamiliar with or unable to engage in the kind of critical analysis and formal response required. Members of the organization were deeply alarmed by the injustices outlined in the draft Environmental Impact Statement, as well as the people's apparent lack of power in determining their own future. The Chamorro people had repeatedly sought political rights; they no longer had the luxury of waiting, in view of the slow pace at which actions in response to those requests had moved.

67. The indigenous people of Guam were the stewards of the island and its environment and needed self-determination in order to secure the future and preserve the integrity of their island. It was no longer realistic simply to expect that self-determination was an issue to be addressed with the administering Power, since the draft Environmental Impact Statement clearly showed that it cared very little about jeopardizing the island. The process of decolonization should therefore take place without the administering Power, with the cooperation of the United Nations. Action must be taken before any more damage could occur as a result of the increased militarization and an investigation should be conducted into the compliance of the administering Power with its obligations under the Charter of the United Nations to promote and preserve the integrity of the island and the human and political rights of the islanders.

68. **Mr. Loayza Barea** (Plurinational State of Bolivia) asked whether the United Nations Declaration on the Rights of Indigenous Peoples was well known among the people of Guam and how the Special Committee could help in disseminating information about the Declaration.

69. **Ms. Cristobal** said that, in her experience, many people in Guam were still not aware of the United Nations Declaration on the Rights of Indigenous Peoples, although, in view of the recent hypermilitarization, people had begun educating themselves and were coming to realize their true status. A United Nations presence in Guam would demonstrate international concern and inform the people that the United Nations had a mission to eradicate colonialism and that they were able to exercise their right to self-determination. In that

regard, she urged the United Nations to send a visiting mission to examine the current situation in Guam and to reaffirm that the militarization of a colony was in violation of the decolonization mandate.

70. **The Chairman** noted that the ninth session of the Permanent Forum on Indigenous Issues had been held recently. If it could be established that representatives of Guam had attended that meeting, perhaps the Committee could help establish a mechanism for them to share what they had learned with the people of Guam. With regard to the responsibility of the various United Nations specialized agencies on the ground, he said that it was indeed part of their mandate to provide information and assistance, as the representatives of all Non-Self-Governing Territories should be aware.

Turks and Caicos Islands

71. **Mr. Roberts** (Turks and Caicos Forum) said that the unprecedented growth of the Turks and Caicos Islands over the past four decades, especially in the area of finance, had drawn many people to the Islands in search of a better life or better returns on their fortunes. Unfortunately, that rapid development had been accompanied by an increase in crime, social ills and corruption. A lack of accountability by elected officials and civil servants, and very poor oversight by the administering Power, had sunk the Islands into an abyss of financial woes.

72. The United Kingdom Foreign and Commonwealth Office had made great efforts to assure everyone that the Territory was free of corruption and there was no need for a Commission of Inquiry. It was only after strenuous calls from the Islanders, including the Turks and Caicos Forum, and from the Foreign Affairs Committee of the administering Power, which took statements from residents, that a Commission of Inquiry had been set up to investigate elected officials and top civil servants. As a result of the Inquiry, the sitting Government had been removed from office, an interim Government had been installed, and the Constitution had been suspended. Strangely, the previous Governor, who had presided over the corruption debacle, was able to return to the United Kingdom without answering to anyone in the Islands. In the year since the interim Government had been installed, not a single offending elected official or civil servant suspected of being involved in the corruption had been prosecuted or brought before the courts.

73. The administering Power had given no explanation as to why no effort had been made to appoint highly qualified Turks and Caicos Islanders living abroad to serve in the interim Government. Nor had it explained why the interim Government had made it a priority to push through a hospital contract agreement that was prohibitively costly to the people of Turks and Caicos. There had also been no explanation as to why Turks and Caicos residents had been forced to come under the umbrella of a national health insurance plan which took money from the salaries of residents already facing unprecedented hardship. The British had been unable to explain why, after the Commission of Inquiry had concluded that the Government of Turks and Caicos lacked legitimacy, they had then used a reconstituted form of that same Government to pass offshore banking legislation that was crippling the fortunes of Turks and Caicos but providing a windfall to the United Kingdom.

74. One of the recommendations of the Commission of Inquiry had been that long-term residents of the Islands should be given the right to vote. That recommendation, coupled with the earlier constitutional requirement for residents living abroad to spend at least twelve out of every twenty-four months in the Islands in order to be eligible to vote, seemed to be an efficient way to dispossess the indigenous people. Such measures violated the basic human right to be allowed to vote and clearly demonstrated that the British were not fulfilling their mandate to guide Turks and Caicos towards self-determination.

75. Paragraph 14 of the plan of action contained in the annex to the report of the Secretary-General on the Second International Decade for the Eradication of Colonialism (A/56/61) stated: "Administering Powers should facilitate, in accordance with all relevant resolutions and decisions of the General Assembly and taking into account Assembly resolution 1514 (XV) of 14 December 1960, the participation of Territories under their administration in the programmes and activities of the specialized agencies, international financial institutions and other organizations within the United Nations system [...]". It was therefore strange that an exercise as significant as the revision of the Constitution and electoral reform was being undertaken by a single consultant hired by a United Kingdom-appointed Governor.

76. He urged the Special Committee to take steps to guarantee the best interests of the residents of Turks and Caicos rather than accept the word of the administering Power. Perhaps the Committee could deputize a group, such as the Turks and Caicos Forum, to catalogue the concerns of residents which could then be presented to the Committee for review. Such methods were the only way of guarding against abuse by a former colonial Power and ensuring that the best interests of the descendants of the Islands' pre-Columbian Arawak and African people, along with those who had settled there more recently, were preserved.

77. **Mr. Swann** (Chairman of the All-Party Commission on the Constitution and Electoral Reform) thanked the Committee for its work on behalf of the people of the Turks and Caicos Islands and offered his services as a permanent point of contact. Little had changed with regard to the conditions in the Turks and Caicos Islands since he had addressed the former Sub-Committee on Small Territories in 1993. Then, he had reported principally on the neglect of the Islands by the administering Power. The Turks and Caicos Islands had felt the effects of the world economic downturn, and many businesses would close before the end of the year. However, that was not just due to the economic crisis, but also as a result of the current constitutional state of affairs, which had placed all the authority in the Islands in the hands of just one man. No developed countries that had undergone constitutional crises had had their constitutions suspended, so the people of Turks and Caicos Islands were confused as to why exactly their Constitution had been deemed to have failed. Sir Robin Auld, who had been appointed to conduct a Commission of Inquiry into the possible corruption, had recommended in his report that the Constitution should be suspended. Yet, in the section setting out the reasons for the appointment of his Commission he had not listed a single constitutional failure, instead citing inappropriate activities by ministers, the weakness of the Governor, indifference at the British Foreign and Commonwealth Office, and general neglect by the British Government, all of which could have been remedied without suspending the Constitution.

78. A review had been ordered of the Constitution and electoral process in the Turks and Caicos Islands, but it appeared that the United Kingdom Government had already decided what the new constitution would

look like. Although an “expert” — Ms. Sullivan — had been appointed to conduct the consultation with the people of the Islands, the Governor had announced that the process would not involve any negotiation. It had already been decided that certain provisions of the Constitution would definitely change and the media were being excluded from public meetings. Such a process could not be accepted as a legitimate consultation with the people, so the leaders of the political parties in the Islands had come together to appoint an independent Commission to seek the views of the people. That Commission was currently halfway through its public meeting stage, but it was already clear that the view of the majority was that the Constitution had not failed and therefore there had been no need for its suspension.

79. The Governor had announced that, following the elections in 2011, there would be a greater British presence in the Islands, which seemed to be an admission that the British functionaries there had been weak. If the weakness had been the fault of the British, why should the people of the Turks and Caicos Islands pay the price? The Foreign Affairs Committee had insisted that the United Kingdom Government should pay for the political reconstruction of the Islands, although so far that notion had been staunchly resisted. He urged the Committee to take a keen interest in the process of constitutional and electoral reform in the Islands, since reform by the British was recolonization by the British.

80. Those who might be in a position to invest in the Islands were awaiting the inevitable changes that would come after the election. Young Turks and Caicos Islanders who had been given the titles to Crown land through the normal channels and built houses there with assistance from the banks, had since been told that they could not exercise their right of residence because their land was within the boundaries of the national park. The Governor had indicated a willingness to grant those people alternative parcels of land, but had refused to consider the value of their houses. Those interested in the financial services sector were complaining about the Managing Director of the Financial Services Commission, who appeared to be operating as a law unto himself. Such trends were detrimental to the interests of the people of the Turks and Caicos Islands. Sir Robin Auld had remarked that the country was leaderless and therefore the Constitution should be suspended. However,

suspending the Constitution had made it even more leaderless, since the Governor did not and could not speak for the people of the Turks and Caicos Islands.

81. **The Chairman**, speaking in his capacity as the representative of Saint Lucia, asked how elections could be held in 2011 if there was no constitution in place; what would be the parameters for those elections? He also asked whether the Governor or Ms. Sullivan were Turks and Caicos Islanders.

82. **Mr. Swann** (Chairman of the All-Party Commission on the Constitution and Electoral Reform) responded that certain parts of the 2006 Constitution had been suspended but that, following the consultation process that was under way and negotiation with the British, a new constitution would emerge. Neither the Governor nor Ms. Sullivan were Turks and Caicos Islanders; they had both been appointed by the Government in London.

83. **The Chairman**, speaking in his capacity as the representative of Saint Lucia, asked whether it had been agreed that the constitutional process now under way would ensure that the constitution was acceptable to all before it was enacted.

84. **Mr. Swann** (Chairman of the All-Party Commission on the Constitution and Electoral Reform) said that Ms. Sullivan had been appointed to lead the consultations. However, in response to an indication that British functionaries were seeking to reduce the influence of the Island’s political parties, those parties had also appointed their own commission to seek the views of the people, which would produce a separate report. Their report would in all likelihood have different findings but it was hoped that when the time came to negotiate with British ministers, both reports would be taken into account. Hopefully, the new constitution would be acceptable to the people of Turks and Caicos, but ultimately, since the constitution would in fact be an Order in Council, that was up to the British.

85. **Mr. Roberts** (Turks and Caicos Forum) said that it was likely that a new constitution would essentially be decreed by the British. He asked the Committee to provide assistance to ensure that the constitution was ratified by Turks and Caicos officials before coming into effect.

United States Virgin Islands

86. **Mr. James II** (President, Fifth Constitutional Convention of the United States Virgin Islands) said that the United States Virgin Islands was making its fifth attempt to draft a locally written constitution to replace the revised Organic Act of 1954, written by the administering Power. The current draft of the constitution had been adopted by the Fifth Constitutional Convention in May 2009 and presented to the Governor of the Territory. After initially refusing to forward the proposed constitution to the administering Power, the Governor had complied in December 2009 following a decision by the courts. That hitch had delayed the process significantly, as had the insufficiency of the resources available to the Convention, which did not allow for adequate public education.

87. It was important to emphasize that a constitution written by a Non-Self-Governing Territory could do no more than reflect its current status and organize internal governance arrangements. The adoption of the constitution by the people in a referendum would not serve as the basis for removing the Territory from the United Nations list. Indeed, the proposed constitution acknowledged that fact explicitly, stating that its adoption would not “preclude or prejudice the further exercise by the people [...] of the right to self-determination regarding the attainment of a permanent political status”. However, the proposed constitution did contain a provision creating a mechanism to examine future political status options.

88. Since receiving the proposed constitution, the administering Power had issued a memorandum outlining its views, including objections to specific provisions granting additional autonomy to the Territory in a number of areas. The Convention had subsequently issued a reply addressing the objections raised, providing sound historical and legal precedents for retaining those provisions. In early 2010, a delegation of the Fifth Constitutional Convention had presented the proposed constitution to two United States congressional committees in Washington. The administering Power had also made a presentation expressing its views. The Convention had recently been asked by Congress to reconvene to consider the administering Power’s objections.

89. The proposed constitution had been drafted by the people and for the people of the United States

Virgin Islands. A number of critical comments about several provisions on ownership of property had been made by people who appeared unaware of the reasons for those provisions. Those critics had not seen the evidence showing that people with ancestry in the Virgin Islands had been devastated by a lack of support. Half the population had left the Territory. Young people were leaving because their parents could not pass on the homes or businesses that had been in their families for decades. That exodus must stop, or the native people of the Virgin Islands would become extinct. The values of the homes in the Virgin Islands had vastly increased due to external factors, causing taxes to rise well beyond the ability of many families to pay.

90. One of the objections was critical of any meaningful reference to the native population. Yet, it was the administering Power itself which had first recognized and defined the native population in the 1917 Treaty transferring supervision of the Territory from Denmark to the United States. Therefore, the provisions affording certain benefits to the native population were consistent with policies, agreements and treaties executed by the administering Power. In any event, the provisions of the constitution embraced all persons born in the Territory who had made the United States Virgin Islands their home.

91. One of the key points of difference related to the provisions for the ownership of marine resources by the people. The administering Power regarded those natural resources as their own, which was inconsistent with the relevant General Assembly resolutions and the United Nations Convention on the Law of the Sea, whose provisions consistently reaffirmed that the ownership, control and disposal of natural resources, including marine resources, lay with the people of Non-Self-Governing Territories. That issue was only one of a number of inconsistencies between the provisions of General Assembly resolutions and the laws which the administering Power was unilaterally applying to its territories. The United Nations should address such inconsistencies as a matter of priority.

The meeting rose at 1.05 p.m.