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SUMMARY RECORD OF THE 7th MEETING

Chairman:

Mr. FLEMMING

(Saint Lucia)

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Hearing of petitioners

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The meeting was called to order at 10.40 a.m.

REQUESTS FOR HEARINGS

1. The CHAIRMAN said that the Committee had before it a communication containing a request for a hearing on the question of Western Sahara (A/C.4/46/3/Add.1) under agenda item 19. If he heard no objection, he would take it that the Committee wished to grant the request.

2. It was so decided.

AGENDA ITEM 19: IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES (Territories not covered under other agenda items) (A/46/23 (Parts V and VI), A/46/201, 336, 344, 359, 409; A/AC.109/1056-1059, 1060-1063, 1064 and Corr.1, 1065-1067, 1068 and Corr.1, 1069-1071, 1073, 1074 and Corr.1, 1075, 1077, 1078, 1079 and Corr.1, 1082; A/AC.109/L.1761; E/1991/116; S/21360 and S/22578)

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3. The CHAIRMAN said that the Committee had before it the relevant chapters of the report of the Special Committee on the Situation with Respect to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples and the various reports of the Secretary-General, as well as other communications relating to the items under consideration.

4. Mr. SHAHEED (Rapporteur of the Special Committee on the Situation with Respect to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples) introduced the chapters of the report of the Special Committee relating to agenda items 19, 99, 101 and 12 (A/46/23 (Parts IV, V and VI)).

5. During the past year, the Special Committee had conducted an intensive review of its approach and methods of work. As a consequence, it had decided to consolidate the relevant decolonization principles that applied to 10 small

(Mr. Shaheed)

Territories in a single resolution, to be followed by short resolutions on specific conditions prevailing in each of those Territories. In Part A of the draft resolution, which appeared in Part VI of the report, the Special Committee reiterated that it was the responsibility of the administering Powers to create such conditions in the Territories as would enable their peoples to exercise their right to self-determination and independence, and that it was ultimately for the people of those Territories freely to determine their future political status. It called upon the administering Powers to facilitate programmes of political awareness, recommended that they give priority to strengthening and diversifying the economies of the Territories, and urged them to cooperate or continue to cooperate with the Special Committee by facilitating the dispatch of visiting missions to the Territories. Part B of the omnibus resolution contained brief resolutions drawing special attention to conditions, questions and problems specific to individual Territories. In addition, Parts V and VI of the report contained the Special Committee's recommendations regarding the Trust Territory of the Pacific Islands and New Caledonia and its decisions regarding Pitcairn and Saint Helena.

6. Turning to Part IV of the Special Committee's report, he said that the Special Committee noted the assistance extended thus far to the colonial Territories and considered that such assistance should be expanded further, commensurate with the pressing needs of their peoples. The Special Committee requested the specialized agencies and other organizations of the United Nations system to strengthen measures of support and formulate adequate programmes of assistance to the peoples of colonial Territories, bearing in mind that such assistance should not only meet their immediate needs, but also create conditions for development after self-determination and the attainment of independence. It recommended that the executive heads of the World Bank and the International Monetary Fund should draw the attention of their governing bodies to the resolution the draft of which was contained in Part IV of the report, and to consider introducing flexible procedures to prepare specific programmes for the peoples of the colonial Territories. It also urged the organizations of the United Nations system to adhere to the Programme of Action contained in the Declaration on Apartheid and its Destructive Consequences in Southern Africa, in particular with regard to increased support for the opponents of apartheid.

7. With respect to information transmitted under Article 73 e of the Charter, the Special Committee requested the administering Powers to transmit or continue to transmit to the Secretary-General the information prescribed in that Article, as well as the fullest possible information on political and constitutional developments in the Territories concerned, within a maximum period of six months following the expiration of the administrative year in those Territories. It requested the Secretary-General to continue to ensure that adequate information was drawn from all available published sources in the preparation of working papers.

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8. On behalf of the Special Committee, he expressed the hope that the Fourth Committee would give its full support to the recommendations of the Special Committee set forth in the draft resolutions and decisions.

AGENDA ITEM 19: IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES (continued)

Question of New Caledonia

Hearing of petitioners (A/C.4/46/2 and Add.1)

9. At the invitation of the Chairman, Mr. Wamytan (Front de libération nationale Kanak socialiste) took a place at the petitioners' table.

10. Mr. WAMYTAN (Front de libération nationale Kanak socialiste) said that New Caledonia was one of the remaining colonial countries still deprived of its right to national sovereignty. New Caledonia had been made a French colony in 1853. As a result of their confinement to reserves, where the Kanaks were still deprived of the right to own land, and the flow of settlers from Europe and Asia, the Kanak people had become a minority in their own country. The Kanak people had responded to this aggression by a series of revolts and had always demanded the return of their land and sovereignty. For the last 30 years the policy of the colonial Government had been to strengthen the ties with France, in spite of the fact that almost 80 per cent of the Kanak of voting age regularly voted in favour of independence. In order to oppose integration with the colonial Power and to ensure its own survival as a people, the Kanaks had joined in confessional associations. Then, in 1984 the Front de libération nationale Kanak socialiste (FLNKS), uniting all the progressive parties calling for independence, had been founded.

11. In 1984 FLNKS had opposed the statute which was to be imposed on the territory and had organized a boycott of the elections. It had later had to struggle against the policy of oppression which had culminated in the massacre in Ouvea in May 1988 of 19 FLNKS members and the imprisonment in France of 30 others. The pressure of FLNKS had forced the Government to open a dialogue, which had led to the Matignon Agreement. The struggle of the Kanak people for decolonization and independence had been recognized by the international community, including the non-aligned countries and the South Pacific Forum. On 2 December 1986, the General Assembly had decided, in resolution 41/41 A, to again include New Caledonia in the list of Non-Self-Governing Territories to which the Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly resolution 1514 (XV)) applied.

12. The Matignon Agreement signed in June 1988 between FLNKS, the Rassemblement pour la Calédonie dans la République (RPCR) and the French Government was regarded by FLNKS as a minimum consensus platform made up of three planks: a non-aggression agreement; joint participation in the political and economic life of the country; amnesty for the political

(Mr. Wamytan)

prisoners and a series of measures to rectify the inequities inflicted on the Kanak population. The Territory's new statute provided for enlargement of the authority of three provinces and established a number of bodies dealing with rural development and land management, the recognition and encouragement of Kanak culture, accelerated training of personnel and the broadening of the possibilities for regional cooperation. Although it did not offer a clear prospect of independence, the Matignon Agreement established a basis on which independence could be built.

13. The RPCR and the French Government assumed that after the 1998 referendum New Caledonia would remain French. FLNKS, however, believed that the Kanak people and the other communities living in the Territory would attain independence in 1998. It was a difficult task to assure that outcome, as French colonialism was attempting to divide the population, but FLNKS was ready to accept the challenge. Three years after the Matignon Agreement, the situation was just beginning to take shape. In a number of important sectors, the country's movement towards independence was impeded by the fact that the rightists controlled the legal infrastructures, the Congress of New Caledonia, in which the RPCR had a majority, and the State, which was demonstrating no real political will. The adversaries of independence, taking advantage of New Caledonia's de facto colonial situation, were making enormous profits which they invested abroad. Moreover, it was possible that fulfilment of the commitments undertaken by the parties would be jeopardized as a result of political developments in France and New Caledonia. Nevertheless, although the limited nature of the 1988 Agreement was already apparent, the political behaviour of New Caledonia's ethnic groups augured well for the goals of FLNKS.

14. The Matignon Agreement had not yet had significant results ensuring that New Caledonia would attain independence. The cases of two political prisoners had not yet been decided in France. Although the compilation of the electoral lists was proceeding satisfactorily in the interior, difficulties were being encountered in Nouméa, where FLNKS had been given no information on the flow of immigrants. The Rural and Land Development Agency (ADRAF), which was responsible for redistribution of the land, had so far assigned only 30,500 hectares. After the purchase by the northern province, which was controlled by FLNKS, of a mining company and its use as a tool for the conquest of that sector by the Kanak people, the French State, through the State "Société le Nickel" had worked out a whole strategy to prevent control by the Kanak people of the "small miners". In the case of education, out of 100 Kanaks entering sixth grade, only 7 obtained the baccalaureate degree by the age of 20 and out of 100 New Caledonians receiving the degree only 13 were Kanaks. It was to be feared that fewer and fewer Kanaks would be able to enter professional training because of the lack of candidates at the required educational level. The access of Kanaks to posts in the public administration of the Territory was difficult because that administration was controlled by the local right. Moreover, FLNKS had demanded that the Government reduce its dependence on foreign aid by changing the import-export structure, establishing fiscal machinery to encourage development and making it possible to control the flight of capital abroad, and an equitable redistribution of

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wealth. In the meantime, the southern province, which was controlled by the RPCR was still not investing in the two other provinces (controlled by FLNKS) but only in Nouméa or abroad.

15. All those problems would be discussed at the forthcoming meeting of the Committee To Monitor The Matignon Agreement. FLNKS wished to take up, inter alia, the questions of general social security coverage, tax reform, the environment - which involved the problem of migration from the northern province and islands to the southern province, land problems, the conclusion of development contracts with the State, reduction of the disproportion in the number of senior posts held by Kanaks in public administration, education and vocational training, and electoral redistricting in order to ensure that FLNKS would be represented in the French National Assembly after the next elections.

16. FLNKS appealed to the United Nations to call on the French Government to implement New Caledonia's decolonization, to keep New Caledonia on the list of Non-Self-Governing Territories and to send a mission to New Caledonia to follow the development of the process and to supervise the extent to which the process could lead to independence. It would be appropriate for the Fourth Committee to refer to the resolution on the question of New Caledonia adopted at the twenty-second session of the Pacific Forum. A referendum on the question of self-determination should be held in accordance with the principles and practices of the United Nations. FLNKS also called for the regular submission of information on the situation in New Caledonia by the Administering Power in accordance with the provisions of Article 73 e of the United Nations Charter.

17. Mr. Wamytan withdrew.

18. At the invitation of the Chairman, Mr. Uregei (Front uni de libération Kanak) took a place at the petitioners' table.

19. Mr. UREGEI (Front uni de libération Kanak) pointed out that France had special interests in relation to New Caledonia and the South Pacific region as a whole, and any political status like the one imposed on that territory by the Matignon Agreements, was designed first and foremost to safeguard the interests of French imperialism in the region. Were the Matignon Agreements really in effect now that three years had elapsed since their signature? Mr. Tjibaou was no longer alive, Prime Minister Michel Rocard had resigned and the Parti Libération Kanak had withdrawn from the group which had signed the Agreement because France had succeeded in making those in favour of the struggle for independence accomplices in denigrating that struggle. There remained only Jacques LaFleur, President of RPCR, who had already proposed to FLNKS a statutory consensus for autonomy prior to the 1998 referendum.

20. FLNKS, which had signed the Matignon Agreements, was pursuing a contradictory policy. It bore the heavy responsibility for enlisting international support for the plan of French colonialism, the implementation of which would by no means guarantee the independence of the Kanaks. While claiming to be pursuing the goal of development, FLNKS was in fact pursuing a

(Mr. Uregei)

policy of dividing the Kanak people and was thus playing into the hands of French colonialism. However, that policy had merely caused FLNKS to lose its influence, as demonstrated by the fact that the recent FLNKS convention in Ponerihouen had been attended by only 60 delegates, whereas before the signing of the Agreements 4,000 delegates had attended the FLNKS convention in Arama. Thus FLNKS was no longer a representative organization. In those circumstances could it still claim to be the legitimate representative of the Kanak people, who had strongly condemned its policy?

21. French colonialism's plan, which was aimed at transfer ownership of the land, which was owned collectively by the Kanak people, to private hands and was ostensibly being implemented in the interests of development, was in fact contrary to the interests of the Kanaks. Transferring the land to private ownership and pursuing a policy of unbridled development were part of the colonial assimilation and integration plan directed against the independence of the Kanaks.

22. The Matignon Agreements would spell destruction for Kanak culture and customs. They would be a tragedy for the Kanak people. The genius of Michel Rocard lay in having been able to induce the independence lobby itself to pursue in anti-independence, anti-tradition policy.

23. With regard to the statutory autonomy consensus, that idea had repeatedly been condemned by FULK. The fact was that if it came about, the next stage would be to give the territory the status of an associate State of France, thus enabling the latter to maintain its colonial domination. By inviting FLNKS to discuss the question of a statutory autonomy consensus before the 1998 referendum, though after the 1995 provincial elections, RPCR, which was sure of victory in the referendum, was luring FLNKS into a trap in order to achieve its goals even before the referendum was held. In addition, it was worth recalling that Jacques Chirac, then Prime Minister, had declared in May 1975 that the idea of internal autonomy as such was already outdated and that, if a choice had to be made, it would have to be between the status of a French département and independence.

24. On 26 July 1991 the President of RPCR had approved the idea put forward by the President of the Caledonian Union, one of the components of FLNKS, to the effect that the 1998 referendum should be simply a question of ratifying the consensus agreement regarding the legislative status of the territory. Such political manoeuvres were not new; the French Government had traditionally used the Caledonian Union to foist its colonial policy on FLNKS.

25. The signing of the Matignon Agreements meant that the resolution of the real problems of the Kanak people would be postponed for 10 years. Over the period for which they had been in effect, the social conflicts in the territory had only grown worse. There had been no change in the colonial basis of the social structure in New Caledonia.

26. During their visit to New Caledonia, the representatives of the South Pacific Forum had been informed that the Forum's support for independence for

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the Kanaks was being nullified as a result of the implementation of French colonialism's plan. Furthermore, knowing that the Matignon Agreements did not guarantee Kanak independence, some South Pacific Forum countries were happy to see the contradictory position on the part of FLNKS continue, because they preferred to look after improving their own diplomatic and trade relations with France and other European countries.

27. Despite the International Decade for the Eradication of Colonialism, France had managed, by anti-democratic means and in order to protect its own interests, to impose on New Caledonia a 10-year plan for the recolonization of the Kanak people. Moreover, the establishment of a single European market in 1992 would further strengthen France's imperialistic hold on the territory.

28. Considering the failure of FLNKS policy, FULK, which advocated immediate independence for the Kanaks, had called on the entire Kanak people to restore its unity through a General People's Congress to be convened on 25 January at Lifou. It would be held within the framework of a plan to establish a society of the Kanak people which recognized that power belonged solely to the Kanak people, and rejected political labels that had served to promote division in the ranks of the Kanaks.

29. He invited the Committee to send a mission to New Caledonia to consider the situation in the context of its programme of action for the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

30. Mr. Uregei withdrew.

Question of the United States Virgin Islands

Hearing of petitioners (A/C.4/46/5)

31. At the invitation of the Chairman, Miss Judith L. Bourne took a seat at the petitioners' table.

32. Miss BOURNE (Long Bay Coalition), referring to the controversy over the degradation of the waters of the Charlotte Amalie harbour and the detrimental development of its shoreline by the West Indian Company Ltd, said that although the Treaty of Cession of 1917, by which the United States of America had purchased the United States Virgin Islands from Denmark, had committed the United States to maintain a concession to the West Indian Company Ltd, the terms of the concession had never been clarified. It involved certain uses of the harbour by the company for its commercial purposes and maintenance by the company of the harbour's navigability. The Treaty of Cession also provided that all questions of interpretation or application of the Treaty were to be resolved through diplomatic contact or, failing that, through recourse to international arbitration.

(Miss Bourne)

33. In 1968 the administering Power had brought a lawsuit against WICO asking the court to confirm that whatever rights WICO might have had under the 1913 "concession" had lapsed. In 1972 the United States judge assigned to hear the case had recommended that the Government of the Virgin Islands request the Government of the United States to settle the matter. The then Governor and legislature of the United States Virgin Islands had confirmed the settlement agreement by legislation. Yet that "agreement" purported to take action which was of no legal effect because, among other reasons, it was beyond the power of the Government to convey submerged lands to a private commercial interest. After the signature of the "agreement" in 1974, the administering Power had conveyed all submerged and filled lands to the Government of the Virgin Islands.

34. Four years after the signing of the "agreement" the Virgin Islands had enacted the Coastal Zone Management Act. WICO had claimed that the Act was a breach of that "agreement" and threatened to sue the Virgin Islands Government for \$US 5 million if its "rights" under the agreement were not exempted from the Act.

35. After the enactment of the exemption, WICO had taken the position that it should be given all necessary permits for commercial activities without the usual public hearings. There had been renewed public outcry, and in 1983 new hearings had been held. At the hearings most of the speakers had vociferously opposed the project. When word came that the Company was about to begin dredging in the harbour in the spring of 1986, the Save Long Bay Coalition Inc. had been formed with representatives of a number of organizations.

36. On 7 July 1986 the legislature had voted to repeal the "agreement" and the exemption. The then Governor had vetoed the repeal, but the veto had been overridden by the legislature in early August. Faced with that act of the people of the Virgin Islands, WICO had turned to the courts of the administering Power and filed a suit against the Virgin Island Government to overturn the repeal act. The courts of the administering Power had refused to consider the international law issues raised or the distinctive status of the Virgin Islands as a Non-Self-Governing Territory. Instead, utilizing principles of law which had been developed with regard to the constituent units of the United States, they had ruled in favour of WICO. The Supreme Court of the United States had then refused to hear an appeal on the grounds that, as an unincorporated territory and not a constituent part of the United States, the Virgin Islands did not have a right of appeal. The current Governor of the Virgin Islands, the Honourable Alexander A. Farrelly, had sent a letter to the United States Secretary of State requesting that the administering Power affirm that the controversy involved the interpretation and application of an international agreement which by its terms required that such a dispute be resolved by specified non-judicial means, but that letter had gone unanswered. The United States State Department had taken a strictly "hands off" attitude which was not in accord with General Assembly resolution 43/44 of 22 November 1988. The State Department had suggested that the

(Miss Bourne)

territorial Government should accept its loss of authority and control, or utilize the power of eminent domain to purchase the submerged and filled lands from the Company.

37. The harbour of Charlotte Amalie, St. Thomas, was important both as a hatchery for crabs, lobsters and fish and as a port. WICO's dredge and fill operations had reduced the aquatic fishery area and had also encroached on the sea lane around a major marina. WICO was now proposing intensive development which would wall off the community from the sea by the construction of multi-storey commercial buildings. It also planned to build the largest tourist/marina/shopping complex in the Territory right next to the dock. Those actions would be catastrophic for the surrounding community.

38. The Government of the United States Virgin Islands, through Governor Farrelly, had made it clear that it did not accept that limiting of its sovereignty over its navigable waters and submerged lands. The Virgin Islands delegate to the United States Congress had publicly declared the need for the Government to regain ownership of the land.

39. In 1989 Governor Farrelly had publicly said that he could not responsibly promise to exercise eminent domain when the territory did not have the resources to purchase the property. He had requested that the administering Power assist in the acquisition of the funds necessary for the use of the power of eminent domain. Given the lack of substantive response to date on that issue by the administering Power, it was appropriate for the Committee to urge the administering Power to take action to assist the territorial Government in that regard.

40. Miss Judith L. Bourne withdrew.

AGENDA ITEM 101: 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

Hearing of petitioners (A/C.4/46/L.7)

11. At the invitation of the Chairman, Mr. González-González took a place at the petitioners' table.

42. Mr. GONZALEZ-GONZALEZ, noting that the list of 25 specialized agencies and international institutions in document A/46/229 included important organizations such as ILO, UNESCO, WHO, WFP and UNICEF, said he wondered why there were no representatives of those organizations in the meeting-room. They should take part in the consideration of an agenda item which directly concerned them and should inform the Committee of the work they had done in the Non-Self-Governing Territories, since that question was of interest to the representatives of all 19 Territories.

(Mr. González-González)

43. Some specialized agencies tended to limit their activities to only a few Non-Self-Governing Territories, which could perhaps be explained by economic or political factors. On the one hand, in some cases they apparently did not have the necessary financial resources to carry out their work in different Territories. On the other hand some administering Powers clearly did not admit representatives of specialized agencies to the territory of their colonies.

44. In the light of those considerations, representatives of the specialized agencies must take an active part in the work of the Fourth Committee and the Special Committee on Decolonization. To that end the Fourth Committee secretariat should maintain contacts with the offices of those organizations in New York and duly concern itself with their participation in the work of the Committee.

45. He did not see how the work of the specialized agencies contributed to the struggle of peoples for independence and to the complete eradication of colonialism. Now, 30 years after the adoption of General Assembly resolution 1514 (XV) of 14 December 1960, greater attention should be paid to securing the sovereignty and freedom of the 19 enslaved peoples, rather than to the provision of technical and economic assistance which could very well be provided after the attainment of independence.

The meeting rose at 12.20 p.m.