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SUMMARY RECORD OF THE 11th MEETING

Chairman: Mr. MOUSHOUTAS (Cyprus)

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The meeting was called to order at 3.20 p.m.

REQUESTS FOR HEARINGS (A/C.4/42/6/Add.12-14)

1. The CHAIRMAN drew attention to three communications containing requests for a hearing concerning Namibia (A/C.4/42/6/Add.12-14). If he heard no objection, he would take it that the Committee decided to grant the requests.
2. It was so decided.
3. The CHAIRMAN also informed the Committee that he had received two communications containing requests for hearings relating to Western Sahara. He suggested that, in accordance with the usual practice, the communications should be circulated as Committee documents for consideration at a subsequent meeting.
4. It was so decided.

AGENDA ITEM 18: IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES (Territories not covered under other agenda items) (continued) (A/C.4/42/2/Add.1-4, A/C.4/42/4 and Add.2 and 4)

Hearing of petitioners

5. The CHAIRMAN reminded the Committee that it had decided to grant the requests for hearings relating to the Trust Territory of the Pacific Islands and New Caledonia (A/C.4/32/2/Add.1-4, A/C.4/42/4 and Add.2 and 4).
6. At the invitation of the Chairman, Mr. Clark (International League for Human Rights) took a place at the petitioners' table.
7. Mr. CLARK (International League for Human Rights) said that at its forty-first session, the General Assembly had returned New Caledonia to the list of Non-Self-Governing Territories, and the International League for Human Rights looked forward to the day when the other French territories in the Pacific, French Polynesia and Wallis and Futuna, would be added to the list.
8. The decision to place a territory on the list of Non-Self-Governing Territories carried with it the expectation that the administering Power would co-operate with the United Nations in following the practice developed over the years under Article 73 of the Charter. Resolution 41/41 A had declared that France had an obligation to transmit the information on New Caledonia under Chapter XI of the Charter, but the administering Power had not even complied with that basic obligation. Throughout 1987, France had also made no effort to co-operate with the Special Committee on decolonization in its examination of the Territory. Moreover, the referendum carried out in the Territory on 13 September 1987 had been in complete disregard of United Nations practice.

(Mr. Clark)

9. Firstly, France had failed to involve the United Nations in the electoral process and had spurned the approaches of the Special Committee on decolonization. Secondly, the options presented to the electorate in the referendum had been either that of remaining in the French Republic or of acceding to independence, in disregard of the third option set out in resolution 1541 (XV), namely, free association with an independent State. There had never been any careful discussion of the free-association option and its essential condition - the power of the associated State to opt out of the arrangement unilaterally. Thirdly, there appeared to have been no attempt to mount an unbiased campaign of political education, a common concept in United Nations practice.

10. That problem had been exacerbated by the inability of those opposed to the French presence to gain fair access to the media or otherwise express their views. That, in turn, was due partly to the presence of some 8,000 military and paramilitary personnel, a vote designed to achieve a foregone conclusion and generous funding to encourage a vote favourable to the administering Power. The counterfeit referendum of 13 September had solved nothing and had been duly repudiated by the States of the region. The United Nations must try again to achieve the administering Power's compliance with the Organizations's decolonization practice. As a start, the International League of Human Rights commended the text of draft resolution I put forward by the Special Committee on decolonization.

11. With regard to the Trust Territory of the Pacific Islands, two disappointing features emerged from the relatively recent history of the Territory: the surprisingly large number of illegal actions which had occurred and the manner in which the Trusteeship Council had nearly always found a way to avoid taking a stand on such legal issues. For example, the Council had not been prepared to examine whether the so-called Commonwealth status for the Northern Mariana Islands and "free association" for the other three entities represented genuine acts of self-determination.

12. Neither had the Council reacted to the International League's criticism that the then-pending referendum in Palau had not been in compliance with the empowering legislation or to condemnation of the referendums held in February 1983 and May 1986, where the majority achieved had not been large enough to meet the mandate of the Palau Constitution, whose nuclear-control provisions had required a 75 per cent majority. In all the above cases, citizens had subsequently sued, and the Palau courts had ruled in their favour. In 1987, an unconstitutional referendum had been held, which had amended the Palau Constitution, abolishing the 75 per cent majority requirement with regard to the nuclear-control provisions. Groups of citizens had twice challenged the purported constitutional amendment in lawsuits, but had had difficulty finding an attorney and had been intimidated into abandoning the case.

13. The Administering Authority's position was that the constitutional amendment had been perfectly legal and that it was therefore in a position to proceed with completing the congressional process in Washington which was necessary to bring the

(Mr. Clark)

Compact between Palau and the United States into force. If there had been any intimidation, it argued, that was a matter for the local authorities, to whom most powers have been delegated in fulfilment of Trusteeship obligations. In fact, the United States had an obligation to the United Nations pursuant to the Trusteeship Agreement to ensure that all actions taken to terminate the Agreement were in fact legally valid. The process of relying on private citizens to vindicate the law had been aborted. The administering authority must use its residual influence to restore a climate safe for lawful dissent.

14. The Palau courts were not the guardians of the rule of law as enshrined in the Charter; that was the duty of the United Nations itself. In November 1986, the United States had proclaimed that it was terminating the Trusteeship Agreement in respect of the Northern Mariana Islands, the Federated States of Micronesia and the Marshall Islands. In a written petition to the Trusteeship Council and in an oral petition, the International League had argued that the actions of the Administering Authority constituted a breach of Article 33, paragraph 1, of the Charter requiring Security Council's approval for any amendment of the Trusteeship Agreement. The Secretariat had pointed out in the proposed programme budget for the biennium 1988-1989 (A/42/6) that no formal proposal to terminate the Agreement had yet been submitted under Article 83. Although the United States had made some vague promise to the Trusteeship Council to abide by its obligations under Article 83, lawyers for the Administering Authority had continued to assert in various lawsuits arising out of nuclear tests in the Marshall Islands that the Trust was terminated as to the three entities in question and that the Security Council had no role in that endeavour.

15. The General Assembly had the power under Article 10 of the Charter to remind the Administering Authority of its obligations and should therefore take note of the Administering Authority's intention to seek termination of the Agreement and should urge the Administering Authority to ensure that that was done in strict conformity with the Charter. The language of paragraph 21 of draft resolution XII should be strengthened to make it plain that strict conformity with the Charter included seeking the approval of the Security Council.

16. The International League challenged the Administering Authority to find a way to vindicate the rule of law in Palau and to vindicate in its Territory its own constitutional principles, and it called upon the United Nations not to stand by in silence as a provision of the Charter was brushed aside by one of the founding members.

17. Mr. Clark withdrew.

18. At the invitation of the Chairman, Ms. Kircher (Minority Rights Group) took a place at the petitioners' table.

19. Ms. KIRCHER (Minority Rights Group) said that in the past 40 years, a body of international law and practice had grown up concerning the notion of sovereignty as constituted by the consent of the world community, a consent which was largely in

(Ms. Kircher)

the power of the United Nations General Assembly to bestow. It was a great responsibility to ensure that the recipients were the legitimate representatives of the peoples of a territory, freely chosen and fully accountable to the inhabitants.

20. The Minority Rights Group noted with satisfaction that the General Assembly at its forty-first session had overwhelmingly decided to return New Caledonia to the list of Non-Self-Governing Territories. At the same time, it must express its dismay at the arrogant attitude of the French Government, which not only had vigorously attempted to prevent New Caledonia's reinsertion in the list but had also stated that it would take no notice of that decision. France had also rejected the proposal in August 1987 by the Special Committee on decolonization for a referendum on independence under United Nations supervision, and had, instead, pushed ahead unilaterally with its own referendum.

21. France asserted that the issue of New Caledonia had been settled. Yet it had imposed an electoral process and a new statute on the indigenous people which totally disregarded their right to self-determination. The process had been widely criticized by numerous French National Assembly representatives, from both the left and the right, and had also been challenged by the 13 South Pacific Forum countries which, in a meeting in February 1987, had found that the Chirac Government's statute had clearly not met accepted United Nations principles and practices and that the referendum had not provided a free and genuine choice of self-determination.

22. Paragraph 8 of the Plan of Action annexed to General Assembly resolution 35/118 stated that Member States must adopt the necessary measures to discourage or prevent the systematic influx of outside settlers into Territories under colonial domination, which disrupted the demographic composition of those Territories and might constitute a major obstacle to genuine self-determination. Yet under the so-called "Luxembourg plan" sponsored by the French Government in the early 1970s, just such an influx had been encouraged, and although the Kanaks were still the largest ethnic group, they currently made up only 43 per cent of the population.

23. The demographic shift had been accompanied by the continued erosion of Kanak control of New Caledonia's resources. Some 80 per cent of the Kanaks still lived on reservations, and a small minority of European families controlled most of New Caledonia's prime land, despite land reforms initiated by the French Government in the early 1980s. European settlers also controlled most industries. Unemployment was high among the Kanaks, and there were striking inequalities between the average income of a Kanak and that of a European. In the educational system, although Kanak children outnumbered European children in primary school, most high-school graduates were European.

24. The 1981 election of a socialist government in France had raised the possibility of independence through negotiations. Although, in July 1983, the French Government had recognized the Kanaks' right to independence, it had chosen to defer any decision on New Caledonia's status for five years, a move that had led to growing political polarization and a wave of violence. In August 1985, the

(Ms. Kircher)

French National Assembly had adopted the Socialist Government's status proposal, which included a new concept - independence in association with France - to be voted on in a referendum by 31 December 1987, and it had also granted greater regional autonomy. The Front de libération nationale Kanak socialiste (FLNKS) had co-operated in implementing the plan, regarding it as a first step towards independence.

25. When the Chirac Government had come to power in March 1986, however, it had repealed that plan and had passed a new law substantially curtailing regional authority. It had also strengthened the powers of the loyalist-controlled Territorial Assembly and had impeded organizations furthering the interests of the Kanak population. Under the new law, a referendum on the future status of New Caledonia had been held on 13 September 1987. Unlike the referendum proposed by the Socialists, the Chirac Government had left voters a stark choice between integration with France or full independence with no promise of continued French economic support. The outcome of the referendum had been a foregone conclusion, because the electoral laws governing the referendum, which had enfranchised all French citizens who had lived in the Territory for at least three years, had ensured a "loyalist" victory. FLNKS had proposed a restriction of the vote to Kanaks and those non-Kanaks who had had at least one parent born in New Caledonia. The French Government's refusal to negotiate with FLNKS on that and other proposals had led FLNKS to boycott the referendum, a move supported by the South Pacific Forum countries. The boycott had been well-observed and non-violent, despite a well-organized campaign of intimidation by pro-French militants and the brutal dispersal by club-wielding policemen of a peaceful demonstration against the referendum.

26. In the weeks prior to the referendum, the right to free expression, assembly and movement of the pro-independence activists had been severely restricted. In August, the mayor of Nouméa had announced a ban on all public transport services to a Kanak suburb. Air and maritime traffic between Grande Terre and the outer islands, inhabited predominately by Kanaks, had been curtailed. Although security forces had broken up peaceful gatherings organized by FLNKS throughout the islands on 31 August, the pro-French parties and their sympathizers had been allowed to hold a large rally in the capital in September.

27. Since the beginning of the referendum campaign, threats and aggression against members of the press had increased. The French daily Le Monde reported that media coverage in New Caledonia had been extremely biased against independence. The FLNKS radio station had been jammed and one of its local posts sabotaged.

28. The extreme right wing in New Caledonia had stepped up its campaign of intimidation and violence. Vigilante groups, responsible for numerous bomb attacks, had emerged over the preceding years. The French population in New Caledonia included many settlers from former French colonies who considered the Territory their last frontier, and had vowed to oppose independence by all means.

(Ms. Kircher)

29. Many Kanaks charged the French military forces stationed in New Caledonia with complicity and participation in anti-independence violence. On several occasions, French police units had forcibly entered tribal areas, ransacked houses, damaged property and intimidated women and children. The French military had engaged in the "nomadization" of Kanak tribes. Military detachments had recently established camps in some 80 tribal areas in an attempt to curtail the influence of FLNKS, thus interfering with traditional tribal life. Despite an order to remain neutral in the referendum campaign, the military had applied pressure on New Caledonians to cast a "Yes" vote.

30. The Minority Rights Group was particularly concerned with the double standard of justice systematically applied in New Caledonia. Kanak prisoners had gone on numerous hunger strikes to protest the disparity in visitation rights, conditions of detention and medical care.

31. The Fabius plan calling for an increased French military build-up in New Caledonia violated General Assembly resolution 35/118. Since 1963, France had tested over 100 nuclear weapons in French Polynesia and had declared that it would continue such tests until the year 2000 despite the increasing and unanimous opposition of the Pacific Island nations and the ratification of a nuclear-free-zone treaty by the South Pacific Forum.

32. Since 1986 France had doubled its troops in New Caledonia. It had embarked on an extensive military programme for New Caledonia, including the expansion of Tontouta Airport to accommodate fighter and marine surveillance planes and the construction of a military port with docking facilities for ships and submarines. FLNKS opposed the French military build-up, and had declared its intention to pursue a policy of non-alignment after independence, a position shared by the South Pacific nations.

33. The French Government's new statute of internal autonomy for New Caledonia, similar to the one in French Polynesia, was unacceptable to FLNKS. Moreover, the outcome of the referendum had not provided the legitimacy sought by Prime Minister Chirac for continued rule in New Caledonia. President Mitterand believed that as long as blatant inequalities persisted in New Caledonia in the distribution of land and resources, the civil service, the teaching profession and school enrolment, the Territory had a colonial-type status, and that a statute which left New Caledonians in their current situation could have tragic consequences.

34. Although the Kanaks had repeatedly shown their willingness to engage in dialogue, calling upon all Caledonians to work for the development of an independent Kanaky, the "Caldoches" (non-Kanak citizens) and the French Government remained intransigent, thus prompting FLNKS to foresake non-violence.

35. Several critical areas of concern surrounded the future political status of the Trust Territory of the Pacific Islands. She urged the Special Committee to monitor vigilantly the ultimate stage of decolonization there, and made four points in that regard.

(Ms. Kircher)

36. Firstly, the unilateral move to terminate the Trusteeship Agreement by presidential decree, followed by congressional action prior to ratification of the Compact of Free Association by the peoples of the Trust Territory, particularly Palau, was incompatible with the unanimous opinion of jurists, including lawyers responsible for devising and administering the termination strategy over the preceding 18 months.

37. Secondly, the termination of the Trusteeship Agreement did not release the United Nations General Assembly from its obligations to the peoples of the Territory to monitor their progress under the full standards of decolonization set forth in General Assembly resolutions 1514 (XV), 1541 (XV) and 35/118. In particular, she suggested that the Special Committee should consider the requirements laid down in General Assembly resolution 2064 (XX) as an appropriate model for inclusion in any resolution terminating the strategic trusteeship of the Pacific Islands.

38. Thirdly, the future political statuses proposed for the four entities of the strategic trusteeship did not provide for free association as enjoyed by the Cook and Niue Islands, but were virtually identical to the status of Puerto Rico. Although the United States had signed Additional Protocol I of the Treaty of Tlatelolco, it interpreted the Treaty as not prohibiting the possession of nuclear weapons in the territories under its control, de jure or de facto, including Puerto Rico. The United States had claimed that the Treaty did not prohibit "transit" or "transportation" of vehicles carrying nuclear weapons, although substantial evidence revealed preparations for using Puerto Rico as a nuclear command and control centre for the Caribbean and the Atlantic. The Compacts of Free Association did not conform with resolution 35/118. They were thus inappropriate future political statuses for such Territories.

39. Fourthly, intimidation by the Administering Authority had distorted the process towards decolonization of the entities of the Trust Territory. The Northern Marianas Legislature had communicated to the Security Council a resolution seeking reassurances on the limits of United States encroachments on Northern Marianas sovereignty because of recent disputes. The Legislature pointed out that, under the Covenant, the Commonwealth of the Northern Mariana Islands (CNMI) retained a greater degree of inherent sovereignty than that of Puerto Rico because, unlike Puerto Rico, the Northern Marianas had never been a possession of the United States subject to its broad plenary power under the territorial clause of the United States Constitution. In the hierarchy of dually sovereign relationships to the Federal Government, CNMI stood in a wholly unique position which, hopefully, would be fully understood by the United Nations, the United States and CNMI at the time of termination, so that the record reflected a responsive framework in anticipation of any future disputes. She believed that the Special Committee had a historic obligation to clarify those issues before termination of the strategic trusteeship was agreed to.

40. In addition, it was critical for the Special Committee to consider the information supplied by Mr. Tony A. de Brum, a member of the Cabinet of the Government of the Republic of the Marshall Islands and an active negotiator of the

(Ms. Kircher)

Compact of Free Association. According to Mr. de Brum, the United States negotiators had refused to negotiate with the chosen representatives of the Marshall Islands claimants, and had insisted on including their claims in the negotiations on the overall Compact of Free Association.

41. During the negotiation period, the Marshall Islands had been administered by the High Commissioner of the Trust Territory of the Pacific Islands, answerable only to the United States. Therefore, the United States had controlled the entire economy of the Marshall Islands. During that period, it had provided or withheld funds for public purposes, in order to pressure the officials of the Islands to adopt acceptable political positions. The United States negotiators had taken the position that their Marshall Islands counterparts should trade off rights for other concessions from the United States in other parts of the Compact.

42. As the United States had committed itself to terminate the trusteeship in 1981, the Marshall Islands had begun to establish the infrastructure necessary for an independent nation. Large sums of money had been borrowed for necessities not provided by the United States. The United States had encouraged and participated in the promotion of many projects through loan funds. As soon as the Marshall Islands had been burdened with debt, the United States had broken its commitment to early termination of the trusteeship, and had refused to provide debt relief. It had informed the Marshall Islands that the latter had been unwise to rely on a policy commitment from a preceding United States Administration.

43. Subsequently, the United States had used the debt burden to bring pressure to bear on the Marshall Islands to include the nuclear provisions, in order to obtain the promised funding. Although the Marshall Islands had resisted that pressure, it had finally succumbed to the United States ultimatum to include those provisions or to forego the Compact and remain a ward of the United States under United Nations trusteeship.

44. Considering that the Compact monies were estimated to provide 85 per cent of the available funding of the Marshall Islands, and that 100 per cent of the funding had previously been provided by the United States, the two negotiating entities had clearly not negotiated at parity. Although the conditions favoured by the United States had been included in the Compact over the objections of the Marshall Islands, those favoured by the latter had been ignored.

45. Certain inducements, i.e., free importation, tax concessions and recognition of the right of the Marshall Islands to control its own territorial waters, had been made to the Government of the Marshall Islands to prompt it to support the Compact during the plebiscite. Nevertheless, the Compact had passed by only 52 per cent to 48 per cent. Following the plebiscite, the United States had unilaterally amended the Compact, withdrawing from it those provisions intended to induce the Islands to support the Compact in the plebiscite, thereby making a mockery of the Marshallese people's act of self-determination. The amended Compact had not been presented to the people of the Marshall Islands for a new plebiscite.

(Ms. Kircher)

46. The United States had coerced the Marshall Islands to include the nuclear provisions, although they were illegal and unconstitutional in the Marshall Islands. Their deletion would have no effect on any other aspect of the Compact, but would mean only that the people of the Marshall Islands could go forward with their claims in United States courts..

47. The prospect that the Marshall Islands would achieve sovereignty if it acceded to the numerous demands of the United States had proved illusory. Only the former Government of the Fiji Islands had welcomed the Marshall Islands to the family of nations as an independent sovereign State. On the pretext that the trusteeship had yet to be terminated, Japan had refused to negotiate reciprocal landing rights and the Asian Development Bank had denied membership to the Marshall Islands.

48. The Minority Rights Group requested that the Special Committee should carry out a more thorough inquiry into the intimidation characterizing the process of moving to a future political status in Palau since the presidential assassination in 1985. She submitted a memorandum of the Associate Justice of the Supreme Court of the Republic of Palau accepting the dismissal of the plaintiffs in an intimidation suit, in which he denied that any intimidation had occurred. Her group believed that international attention was essential for the re-establishment and protection of the legitimate rights of the indigenous peoples of New Caledonia and Palau. The United Nations had a historical obligation to the Kanaks and the Micronesians, rooted in the Declaration on the Granting of Independence to Colonial Countries and Peoples.

49. Ms. Kircher withdrew.

50. At the invitation of the Chairman, Mr. González-González, speaking in his personal capacity, took a place at the petitioners' table.

51. Mr. GONZALEZ-GONZALEZ referred to the scores of recent articles and books on the situation in the Trust Territory of the Pacific Islands. He suggested that a recent film on the making of a nuclear-free Palau should be shown during a subsequent meeting of the Fourth Committee.

52. Since 1976 the Trusteeship Council had not been representative of the United Nations, because its membership consisted only of the five permanent members of the Security Council. Although it might be said that the People's Republic of China represented Asia, China did not in fact participate in the Council's work. The composition of the Council included only one socialist country (the USSR), whereas there were three imperialist countries (France, the United Kingdom and the United States), which were fervently united against the USSR. The latter was clearly vigorous and steadfast in working for the rights of the people of Micronesia, unification of the Territory and demilitarization of all the islands. Yet the United States continued to dismember the Territory, militarize the region and bring pressure to bear on the inhabitants to accept dishonest local plebiscites.

(Mr. González-González)

53. He proposed that the closest friends of China should urge it to occupy the seat on the Council formerly occupied by the puppet government of Taiwan. In addition, consideration should be given to increasing the number of members on the Trusteeship Council, bearing in mind regional representation. Moreover, the Secretary-General should be requested to lend his good offices to seek a speedy and just solution to the problem of Micronesia. The Secretary-General was presumably prepared to do so, having already expressed his favourable attitude towards the Micronesian cause during a recent press conference.

54. On 21 September 1984, he had sent a letter to the President of the Security Council concerning the problem of Micronesia. Six days later, he had received a reply from the Director of the Security Council and Political Committees Division. In reply to the question whether there was any regulation in the Security Council and/or the Trusteeship Council that could prevent the former from submitting the report of the Trusteeship Council on Micronesia to the General Assembly for discussion, the Director had written that, in the light of Article 83 of the Charter, there was absolutely no basis for such a submission. A Member State would have to raise the issue of Micronesia in the Security Council as a regular item. That could be done upon a special request by the Trusteeship Council or by the introduction of the item by a member of the Security Council or by any other Member State. Should the issue be included in the agenda of the General Assembly, that body would decide on the course of action to be taken.

55. He understood from that reply that, although it was not specifically stated in the Charter that the Security Council should send the General Assembly the Trusteeship Council's report on Micronesia, there was nothing to say that it should not do so. Also, since the question of Micronesia could be discussed in the Security Council at the request of the Trusteeship Council or any State Member of the United Nations, the Security Council could request the inclusion in the agenda of the General Assembly of an item entitled, for example, "Report of the Trusteeship Council to the Security Council". Consequently, the General Assembly - and not only the Security Council and the Trusteeship Council, as the representative of the United States maintained - was empowered to discuss the colonial question of Micronesia. It was of the utmost importance that all the "owners" of international territory, namely, the 159 States Members of the United Nations, should discuss that question in depth. Failure to do so would be tantamount to failure by the free countries to support the cause of peoples still under the colonial yoke.

56. Mr. González-González withdrew.

57. At the invitation of the Chairman, Miss Quass (United Methodist Office for the United Nations) took a place at the petitioners' table.

58. Miss QUASS (United Methodist Office for the United Nations) expressed the Office's support for the report of the Special Committee on decolonization on the Trust Territory of the Pacific Islands (A/42/23 (Part VI)). The Office had experience of the Pacific region as a non-governmental organization working with partner churches which saw self-determination as an ongoing process for all nations.

(Miss Quass)

59. With regard to Palau, Article 83 of the Charter implied that the right to self-determination was to be equally applied to strategic and non-strategic areas. Yet current United Nations practice in the only strategic Trust Territory appeared to be subject to a lower standard of decolonization than in non-strategic Territories. Two aspects of the decolonization process in Palau gave rise to concern: first, the absence of political choices for the voters; and second, the use of United Nations observers to legitimate rather than safeguard self-determination.

60. In the six plebiscites on the Compact of Free Association held in Palau since 1983, there had never been a single political education campaign or a ballot offering an option to a new version of the Compact. The "choice" of free association had been made by the Congress of Micronesia in 1969; the Congress had recommended either independence or free association for the entire Trust Territory, and the peoples' representatives had chosen free association as a concept not embodied in a specific status agreement. The Constitution established in 1979 had been confirmed by two rulings of the Palau Supreme Court as the supreme law of the land, so that the Compact must conform to it. Yet the Compact had been put before the people of Palau in six plebiscites between 1983 and 1987 in which no new choices had been offered to voters. In the two plebiscites held in 1987, violent coercion and intimidation of voters and the economic crisis had further restricted choice, despite the fact that, as stated in the report of the Special Committee on decolonization (A/42/23 (Part VI), para. 126 (4)), it was the obligation of the Administering Authority to enable the people to exercise, with full knowledge of possible options, their inalienable right to self-determination. United States Public Law 99-658 clearly stated that the United States President and the Congress must take further action to implement the Compact, after ratification by Palau. Since then, the United States Administration had maintained that no renegotiation with Palau was possible. Reference to that Law's express approval of the Compact had even been included in the plebiscite presented to the voters in June 1987, which must have made the choice even more limited.

61. Plebiscites were regarded by the United Nations as both an instrument of internal decision-making and a demonstration for outside observers of the choice made by the people. The role of the observers sent by the Trusteeship Council was therefore of the utmost importance. The mandate for the observers of the earlier plebiscites had included the polling process and the obtaining of information concerning political, economic and social developments. However, the mandate for the later plebiscites had referred only to the voting process, and the most recent mission had not even been directed to observe the campaign. That was an alarming development, since the Council knew of the coercion of the voters and the intimidation of the judiciary, and was also aware that a questionable constitutional amendment process had occurred on 4 August 1987 without United Nations observation. The Council had adopted two resolutions requesting the United States to implement the Compact with Palau despite the ongoing litigation which proved that it had not been ratified by Palau.

(Miss Quass)

62. Decisions drastically affecting living standards had been adopted by the Palau Government just before the plebiscite of June 1987, in which the Compact had been rejected for the fifth time. In none of the plebiscites had the Compact ever received at least 75 per cent of the votes cast, as required by the Constitution.

63. The recent violent intimidation in Palau had been documented for the Trusteeship Council and the Security Council by members of European and Pacific Parliaments, and organizations and churches throughout the world. The United Nations, the Administering Authority and the Palau authorities were equally responsible for the past violence and for preventing any such illegal action in the future.

64. Vigilance would be needed to ensure that illegitimate acts of self-determination were not the basis for denying the people of Palau legitimate choices for their future political status. Peoples in other parts of the Trust Territory would also need expertise and support when seeking further self-determination beyond the term of transitional status agreements with a fixed duration. Her organization requested the Fourth Committee to work out a relationship with other United Nations bodies so that the substantive provisions of the Charter and the resolutions on self-determination were fully applied even for the peoples of strategic Territories. If the Committee found that the Trusteeship Council and the Security Council had subordinated their decolonization mandate to a security mandate, it should act immediately to safeguard self-determination.

65. Miss Quass withdrew.

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

67. Mr. TJIBAOU (Front de libération nationale Kanak socialiste (FLNKS)) said that, for the people of Kanaky (New Caledonia), colonialism was not a matter of history but a burning issue involving the theft of their heritage and their sovereignty. He reviewed the history of the island nation since its discovery by the West in the eighteenth century, and particularly since the beginning of French colonial rule in 1853. Almost immediately, the French had destroyed the traditional ways of the Kanak people by relegating them to reservations in arid or mountainous regions and handing over the fertile land to French settlers. The ensuing series of revolts by the indigenous people had been bloodily put down over the years.

68. France had liberalized its policy somewhat by granting suffrage to the Kanaks in 1952, but when the Kanak majority had elected its first majority local government under the Autonomy Statute of 1957, De Gaulle had warned that the Statute would be maintained only if the people voted to remain part of France in a forthcoming referendum. Having done so, the Kanaks had none the less seen their hopes for political life dashed when the Statute had, in fact, been revoked in 1963 owing to the strategic value which Caledonian nickel had acquired for the French economy. Since 1963, it had been France's colonial policy to make the Kanaks a demographic and electoral minority and to legalize Parisian control over the country's essential economic, administrative and political functions.

/...

(Mr. Tjibaou)

69. Although in 1983 France had recognized the right of the Kanak people to self-determination in theory, it had refused to take account of proposals made by the Kanak political parties, which had then been forced to become more radical and, in 1984, to band together to form FLNKS. FLNKS had boycotted the elections of that year and mobilized a national resistance. In response, the French Government had grudgingly agreed to discussions on the possibility of eventual independence; but the subsequent Chirac Administration had reneged on that commitment and passed another so-called Autonomy Statute in 1986, which had reversed whatever progress had been made in regional self-government and excluded any provision for eventual independence; furthermore, the Statute had halted the land-restoration programme and fostered an aggressive policy of recolonization of Kanak lands by French settlers.

70. Progressive circles in France itself did not support the current Government's dangerous course. FLNKS had been encouraged by the regional support given to the Kanak people's cause by the Heads of Government of the member States of the South Pacific Forum, who in 1987 had called for a United Nations-sponsored referendum in the country. Moreover, the General Assembly itself had, at the urging of the Movement of Non-Aligned Countries, adopted resolution 41/41 A, recognizing that New Caledonia was a Non-Self-Governing Territory and reaffirming the Kanak people's right to self-determination and independence.

71. France unfortunately, adopting the same disdainful attitude towards the United Nations as it did towards Kanaky, had refused to co-operate with the Special Committee on decolonization by transmitting to it information on the Territory. In Kanaky itself, it had gone ahead with the sham referendum of September 1987, which all the pro-independence political movements and parties had decided to boycott, since the only political education the people had received beforehand had been blatant right-wing pro-union propaganda, and since the vote had been compromised in advance by unfair residency requirements and serious voting irregularities. The results of even the tainted vote of September 1987, however, had been inconclusive: 83 per cent of Kanak voters had favoured independence, while 85 per cent of non-Kanak voters had favoured continued union with France.

72. France's control over Kanaky was a colonial occupation based on racism and repression. FLNKS, on the other hand, stood ready to enter into a dialogue, provided it was genuine. Moreover, as an accredited observer to the Movement of Non-Aligned Countries, it supported that Movement's call for a United Nations-sponsored conference on international terrorism, and it also supported the Rarotonga Treaty, which aimed at denuclearizing the South Pacific. FLNKS stood in solidarity with all those anywhere in the world who were fighting for their independence.

73. Mr. Tjibaou withdrew.

74. At the invitation of the Chairman, Mr. Lewis (Friends of Vanuatu) took a place at the petitioners' table.

75. Mr. LEWIS (Friends of Vanuatu) said that his organization sought to educate the population of North America about the countries and peoples of the South Pacific. New Caledonia, which was being colonized by France, had a total land mass of approximately 20,000 square kilometres; the main island was one of the largest islands in the South Pacific. The area of the sea included within the exclusive economic zone made New Caledonia one of the richest countries in marine minerals and sea life, and its land was rich in chrome, cobalt, iron and nickel; New Caledonia was, in fact, one of the world's leading producers of nickel. In 1983, 42.7 per cent of the population had been Kanak, 37 per cent French and 21.3 per cent of other nationalities.

76. The French administering Power had, in September 1987, conducted a referendum to determine the political status of New Caledonia, a referendum which had proceeded without the co-operation or presence of the United Nations, against the wishes and interests of the indigenous population, and in the presence of 8,000 French soldiers. The settlers had been given the opportunity to determine the political status of New Caledonia, since the vast majority of the indigenous people had not participated. The results of that plebiscite represented the wishes of the settler population to continue the colonial exploitation of the indigenous natural resources and culture. It could be that the attempt to annex New Caledonia related also to international water routes, nuclear-waste disposal, nuclear testing and foreign military bases.

77. Such a referendum and the force of arms did not and would not take away the right of the Kanak people to self-determination. Draft resolution 1 of the Special Committee on decolonization was reasonable and should be adopted by the Fourth Committee.

78. Mr. Lewis withdrew.

AGENDA ITEM 36: QUESTION OF NAMIBIA

Hearing of petitioners (A/C.4/42/6/Add.9 and Add.14)

79. The CHAIRMAN reminded the Committee that it had been decided to grant the requests for hearings relating to the question of Namibia contained in documents A/C.4/42/6/Add.9 and Add.14.

80. At the invitation of the Chairman, Miss Hovey (American Committee on Africa) took a place at the petitioners' table.

81. Miss HOVEY (American Committee on Africa) said that the news from Namibia had become even more disturbing. The refusal of the Western Powers to impose mandatory economic sanctions had given South Africa confidence in its ability to maintain its illegal occupation of Namibia, and it seemed intent on deepening its economic and military dominance over neighbouring independent States. There was no evidence that Pretoria felt sufficiently pressured to seek peace in Namibia. Instead, it had continued its policy of political manipulation and simultaneous repression. The political manoeuvres had recently involved yet another so-called interim

(Miss Hovey)

government, for which the Namibian people were paying with blood and shattered lives. South Africa's brutal policies were aimed not only at SWAPO, but at organizations, including the church and the growing trade-union movement, which played central roles in the lives of the Namibian people.

82. In an attempt to broaden the public base of support in the United States for SWAPO and the Namibian people's struggle for independence, the American Committee on Africa had organized a national conference on Namibia in Chicago in July 1987, with the support of the United Nations Council for Namibia. One major theme of the conference, attended by some 200 participants, had been the need for progressive forces within the United States labour movement to build links of solidarity with the Namibian labour movement. A programme of action adopted by the conference expressed solidarity with SWAPO and demanded that the Reagan Administration should abandon the false doctrine of linkage, end all aid to UNITA, and impose comprehensive mandatory sanctions against South Africa.

83. In late July, more than 4,500 mineworkers at the Tsumeb mines in Namibia had gone on strike for better living conditions, wage increases and greater safety, in what had probably been the largest labour action in Namibia since 1971. Supported by the South African-controlled courts, the company had evicted the strikers; union leaders and SWAPO leaders had been arrested, and only after weeks of protest and international actions had they been released in September. That strike had made it clear to the Namibian union movement that the law would always side with the mine-owners. Three of the unions involved were faced with heavy court costs, and the American Committee on Africa was seeking to respond to the appeal from the mineworkers for international assistance to help them continue their struggle. Such support had two facets: solidarity with the liberation struggle, and the imposition of comprehensive mandatory sanctions on South Africa by the Security Council with the full and active support of the United States. Those were the tasks that lay ahead.

84. Miss Hovey withdrew.

85. At the invitation of the Chairman, Ms. Erenstein (National Lawyers Guild) took a place at the petitioners' table.

86. Ms. ERENSTEIN (National Lawyers Guild) said that the Guild, which represented 10 000 legal personnel in the United States, regretted the United States Government's failure in its legal obligation to work for the independence of Namibia. The anti-apartheid Act of 1986, which required that the United States Government should work for the independence of Namibia, was a reiteration of that Government's long-standing obligation under international law. Regrettably, that Government, and particularly the Reagan Administration, had not only failed in its obligations, but had even flouted the rule of law with respect to Namibia, while giving lip-service to Namibian independence.

(Ms. Erenstein)

87. The strategies of Pretoria and Washington were very similar. By different means, both aimed at delaying the independence of the Territory. The United States Government's actions not only supported the policies of racist South Africa, but also were at odds with the policy set forth in the anti-apartheid Act and with the legal obligations of the United States under international law. The Guild pledged its support for the resolution recently introduced in the House of Representatives with a view to reversing United States policy towards Namibia, and also for pending legislation to impose comprehensive sanctions against South Africa. It would work to pressure the Reagan Administration to comply with the current sanctions law, and would encourage its members to work to defeat the discredited policy of "constructive engagement" in the next presidential election. It urged the General Assembly not to permit itself to be held hostage by the veto power of the United States and its allies, but to enact comprehensive sanctions against South Africa and take the necessary steps to enforce them.

88. Ms. Erenstein withdrew.

89. Mr. BUCZACKI (United States of America), speaking in exercise of the right of reply, said that at an earlier meeting his delegation had expressed serious reservations with respect to the request for hearings related to the Trust Territory of the Pacific Islands, because the matter should not be discussed in the General Assembly. Article 83 of the Charter clearly stated that jurisdiction relating to strategic areas lay exclusively with the Security Council and the Trusteeship Council. The latter met every year to consider developments in the Trust Territory, and representatives of the peoples of that Territory had flown to New York to appear before the Council. At those sessions, the concerns raised by petitioners at the current meeting had been expressed and responded to. The United States submitted a detailed annual report on developments in the Territory. The Trusteeship Council had also sent visiting missions to Micronesia to observe the conditions there and the various plebiscites conducted as part of the ongoing process of self-determination.

The meeting rose at 6.10 p.m.