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GENERAL

T/PV.1549  
25 May 1983

ENGLISH

UN/SA COLLECTION  
Fiftieth Session

VERBATIM RECORD OF THE FIFTEEN HUNDRED AND FORTY-NINTH MEETING

Held at Headquarters, New York,  
on Friday, 20 May 1983, at 10.30 a.m.

President: Mr. MARGETSON (United Kingdom)

Examination of the annual report of the Administering Authority for the year ended 30 September 1982: Trust Territory of the Pacific Islands (continued)

Examination of petitions listed in the annex to the agenda (continued)

Report of the United Nations Visiting Mission to the Trust Territory of the Pacific Islands, 1982 (continued)

Report of the United Nations Visiting Mission to observe the plebiscite in Palau, Trust Territory of the Pacific Islands, February 1983 (continued)

Hearing of Petitioners (continued)

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83-60648

45P.

The meeting was called to order at 11 a.m.

EXAMINATION OF THE ANNUAL REPORT OF THE ADMINISTERING AUTHORITY FOR THE YEAR ENDED 30 SEPTEMBER 1982: TRUST TERRITORY OF THE PACIFIC ISLANDS (T/1853; T/L.1235 and Add.1) (continued)

EXAMINATION OF PETITIONS LISTED IN THE ANNEX TO THE AGENDA (see T/1852/Add.1) (continued)

REPORT OF THE UNITED NATIONS VISITING MISSION TO THE TRUST TERRITORY OF THE PACIFIC ISLANDS, 1982 (T/1850) (continued)

REPORT OF THE UNITED NATIONS VISITING MISSION TO OBSERVE THE PLEBISCITE IN PALAU, TRUST TERRITORY OF THE PACIFIC ISLANDS, FEBRUARY 1982 (T/1851) (continued)

HEARING OF PETITIONERS (continued)

The PRESIDENT: I regret that it is now exactly half an hour after the published time at which we should start. We have a long day ahead of us and I should like, if I may, to be able to start this afternoon's meeting as near as possible to the published time.

The Council will now continue with the hearing of the remaining petitioners whose requests for an oral hearing are already granted.

I invite Mr. William Butler, Mr. Roger Clark, Mr. Julian Riklon and Ms. Bernie Tosie Keldermans to take places at the petitioners' table.

At the invitation of the President, Mr. William Butler, Mr. Roger Clark, Mr. Julian Riklon and Ms. Bernie Tosie Keldermans took places at the petitioners' table.

The PRESIDENT: I also invite all those petitioners who have already spoken to take places at the petitioners' table, in case members wish to put questions to them.

At the invitation of the President, Mr. Sylvestre Cruz, the Reverend Father William Wood, High Chief Ibedul Gibbons, Mr. Nelson Wolfe, Mr. Douglas Faulkner, Mr. Tosiwo Nakumara, Mr. Patrick Smith, Sister Barbara Glendon and Mr. Stuart Beck took places at the petitioners' table.

The PRESIDENT: I now call on Mr. William Butler.

Mr. BUTLER: Mr. President, on behalf of the Minority Rights Group, with which I have the privilege of being associated as a member of its board of directors, I thank you for the opportunity to address this Council on the issue of the Trust Territory of the Pacific Islands.

The Minority Rights Group has the privilege of consultative status with the Economic and Social Council of the United Nations. We take as our brief the application of the Universal Declaration of Human Rights to all peoples of the world, particularly those that are being victimized because of characteristics such as race, sex, religion ascribed to them as groups.

We have therefore monitored the Trusteeship of the Pacific Islands with considerable interest since the formation of our organization in 1965. Indeed, one of our sponsors until his death was Erwin D. Canham, who in the 1970s was the Plebiscite Commissioner in the Northern Marianas.

We do not ask for the time of the Trusteeship Council today in order to rehearse the history of the United States management of the Trust Territory of the Pacific Islands.

In general, however, we share the concern expressed by representatives in this forum last year that an already small population has been divided into four micro-entities, for no other apparent logic than the convenience of the administering Power. We share the concern of the representative who pointed out that the four archipelagic States-in-formation, after 37 years of trusteeship, still have inadequate ports, airports, roads, schools and hospital facilities and that the economy of each of the entities is more than 70 per cent dependent on public service employment funded by the administering Power. Like other petitioners, we regret that the administering Power has not been able to sustain the self-sufficiency that once existed in the islands or even to promote its recreation by the development of fisheries, solar energy, tourism or by means of exploiting the sea-bed. We very much hope that the people of Micronesia, whatever else they lose after 37 years of Trusteeship, will not be alienated from their sovereign rights to the fruits of the waters of their archipelagos. We are somewhat reassured by the acknowledgement of Ambassador Sherman of the United States, who I understand represents the United States before this body, when he said, in a statement to this Council on 4 June 1982:

(Mr. Butler)

"Our record in economic development and in the improvement of social conditions no doubt leaves more to be desired, as we have never hesitated to acknowledge ... and we fully intend to continue to assist Micronesia in the post-termination period in order to promote further its economic development and its effort to attain self-sufficiency." (T/PV.1536, pp. 13 and 14-15)

We in the Minority Rights Group and in other interested non-governmental groups with which I am associated wonder how termination of the trusteeship can be contemplated if the economic and social conditions are not such as to permit self-sufficiency.

We are not here today, however, so much to argue on behalf of the Belauan people to protect their cultural heritage and their way of life after so many hundreds of years, but to defend the basic fundamental political freedom of Belauans to determine finally the environment in which they wish to live, free of external and dominating influences.

We are convinced beyond any doubt that the political will of the Belauans was fully expressed in 1979, when the overwhelming majority of the Belauans, on at least three occasions, voted to reaffirm a nuclear-free constitution.

This fundamental determination of the Belauans has also been recently affirmed, in February of 1983, when the Belauans again repudiated an attempt to insert a new radio-active supplementary agreement into the Belauan legal system which was incompatible with the basic provisions of the Belauan Constitution.

Basic international rules and norms in international law, including the right of peoples to self-determination, provide that a Constitution agreed upon at a constitutional convention and participated in by all segments of the community becomes the supreme law of the Territory or of the land.

It is our position that, when supplementary ancillary laws, legislation or administrative acts conflict with the basic provisions of a Constitution so drawn up, then the provisions of that Constitution shall and must prevail.

Accordingly, we find in the Belauan situation a direct conflict between Section 314 of the Compact of Free Association, voted favourably upon by the Belauan people, and Article 2, Section 3, and Article 13, Section 6 of the Belauan Constitution, which provide that, in the absence of a 75-per-cent vote by the Belauans, the territory of the Republic shall be ever free of radio-active materials.

(Mr. Butler)

What we are concerned about most is that unreasonable pressures will be exercised upon the Belauan people to reverse this fundamental determination. Our concern is even more acute and underlined because of the attempts to void this existing Constitution by the convening of an illegal meeting of the Belauan legislature in 1979 - we think under pressure by the administering Power - an action which was totally rejected by the Belauan people in a plebiscite held on 9 July 1979 by an overwhelming vote of 92 per cent. Later, in February 1983, another attempt to negate the nuclear-free provision of the Constitution through the presentation to the Belauan people of a radio-active supplementary agreement was also rejected by the Belauan people, pursuant to the terms of its Constitution.

We are all the more concerned because of the recent statement by the administering Power to the effect that

"Palauan authorities must now devise an acceptable method of reconciling their constitutional provisions to comply with the mandate of the Palauan electorate for free association with the United States."

It is obvious that the administering Power is not in any way accepting the expressed will of the Belauan people to remain nuclear-free in this day and age.

(Mr. Butler)

No one can argue that it is improper for the Administering Power to take such steps as are necessary to protect the security of the area and the security of the country of the Administering Power provided that these steps do not interfere with the fundamental right of the Belauans to exercise freely their political will. This in the crux of our issue. The Administering Power, pursuant to the Trusteeship Agreement of 1947, has undertaken to promote and develop self-government and independence within the Territory and to protect "its people and the freely expressed wishes of the peoples concerned".

The constant attempt through various techniques, pressures and financial arrangements to bring about a change in the political will of the Belauans is contrary to established norms and standards not only of international law but also of the bilateral commitments of the Administering Power set forth in the Trusteeship Agreement of 1947. We therefore recommend that an international commission composed of various interested parties should immediately conduct a fact-finding mission to inquire into the facts and circumstances surrounding this particular issue and report its findings to this Council at the earliest opportunity. Only then will there be sufficient evidence before the Council and before the court of world public opinion to determine whether or not there has been undue and improper interference with the fundamental right of the Belauans freely to express their wishes.

We take the position that until this issue has been fully investigated and explored, the Trusteeship Agreement of 1947 cannot be terminated.

The PRESIDENT: I now call on Professor Roger Clark.

Mr. CLARK: I appear before the Council on behalf of the International League for Human Rights, a non-governmental organization in consultative status with the Economic and Social Council. I believe that the League, which has always taken a special interest in matters of decolonization, has been represented at nearly all of the Council's 50 regular sessions and 15 special sessions since its first meeting in 1947. We have been cheerfully contemplating the demise of this body for several years now but, as somebody else said, reports of its death have been greatly exaggerated. There always seems to be another bend in the road that leads to the final self-determination of this last Trust Territory.

(Mr. Clark)

I wish today to address primarily the matter of the Palau plebiscite of 10 February 1983 and to reiterate a theme which I have been stressing in the eight years that I have represented the International League at these meetings. That theme is the failure of this Council to become sufficiently involved in plebiscites such as that which has just taken place. I believe that there is a lesson here for the plebiscites which will soon take place in two other entities.

As some members will recall, I spoke to the Council at its special session on 16 December 1982 when the despatch of the observer mission was being discussed. I chided this Council, as firmly as one can decently do on such occasions, for its failure to take a more central role in the organization of the plebiscite. I also referred to what I called the "unfair statement of the issue" in ballot question B of Proposition One, which had just become available. It was my hope that the Council would seize the initiative and insist that the problem be corrected. Question B, it will be recalled, referred to activities with dangerous substances and involved a modification of the Palau Constitution. As drafted at that time it seemed to me to be a deliberate attempt to mislead the voters as to the fact that their Constitution was being modified. I regret that nothing was done by the Council. As the report of the Visiting Mission to observe the plebiscite notes at page 20, it was left to legal action in the Supreme Court of Palau to straighten the matter out and to remove the misleading language. At page 36 of its report, the Visiting Mission heaves a collective sigh of relief that the Court's action relieved it from having to take a position on whether the language was unfair or prejudicial. This body, this Council, should have made that very easy determination, not the Supreme Court of Palau or the Visiting Mission.

In responding to my comments in December about the ballot language, the representative of the Administering Authority told this Council that

"A further misconception being propagated here is that these elections are somehow taking place under the supervision of the United States Government. I repeat that the plebiscites in Micronesia are to be organized, conducted and run by constitutional elected Micronesian Governments, not by the United States." (T/PV.1543, p. 37)

(Mr. Clark)

Later he said:

"Questions have been raised about the wording of a portion of the agreed Palau plebiscite ballot which concerns radioactive, chemical and biological materials. The inclusion of the question and its wording are both products of agreement between Palauan and United States negotiators. The Palauan Government considers the inclusion of the question, and its approval by a three-quarters majority, necessary under one provision of the Palauan Constitution in order to bring another provision of the same Constitution into conformity with the Compact of Free Association. The wording of the question on the ballot again was deemed appropriate by the executive and legislative branches of the Government of Palau." (ibid., p. 41)

Those statements were in themselves misleading when examined in the light of United States Government documents which were filed with the Palau Court in the course of the challenge to Proposition One (B) and others which I have obtained pursuant to the United States Freedom of Information Act.

Consider first the matter of the "supervision" of the United States Government. A telegram sent in December to President Remeliik in Palau contained these words:

"We are concerned that the public information employees working at a distance from Koror are being inconvenienced by irregularities in the issuance of their checks. We would ask that you make every effort to guarantee that paychecks for these employees are given the highest priority. We would hope that you could instruct the Minister of Finance and Administration to prepare the checks in advance so that they are available when offices open on pay day. As representatives from my office stated when they were in Palau, this short programme is of the highest priority to us and we believe that any obstacles to the effective administration of this public information programme should be removed. United States funding of the information effort is based on our responsibility to ensure that information about the Compact is distributed as efficiently and effectively as possible so that every citizen of Palau will have had an ample



(Mr. Clark)

opportunity to study the provisions of the document. We expect your Budget Office to alleviate administrative burdens that could distract public information personnel from their immediate duties. If your budget officers have any questions regarding the administration of the programme, please let us know."

If that is not "supervision", I do not know what to call it.

(Mr. Clark)

Secondly, in a January telegram to President Remeliik, we find the following words:

"In response to the final paragraph of your letter of 22 December 1982, I appreciate your concerns about visits during January. I have decided that no members of my staff will visit Palau at that time. Permit me to express again my appreciation for the warm welcome and hospitality you have shown to Messrs. Downs, Hannaford, Penniman, and Smolka. Mr. Hannaford and three members of our team of professors, Dr. Penniman, Dr. Smolka and Dr. Alan Cairns will be in Palau at the time of the plebiscite. This team will be available to work with you in the final stages of the programme and to offer Mr. Basilius assistance in explaining the programme to the United Nations observer team. Penniman, Cairns, and Smolka will stay, after the vote is taken and after the UN observer team has departed, to witness the collection of votes in order to assist in defending Palau's efforts. I hope that you will involve them in the activities of the Visiting Mission. Chuck Downs will not be able to visit Palau at this time because he is needed in Washington on other duties. The United States remains willing to send officials who may be able to help you explain the Compact and its subsidiary agreements. We will be more than happy to pass on requests for United States official participation to any office, and the Office of Micronesian Status Negotiations has assured us that they are willing to send Jim Berg or other members of their staff if that is your wish."

That is nothing sinister. The arrangements for "our team" are hardly indicative of a total hands-off attitude, such as the Administering Authority seems so determined to portray. Then, there is the matter of the "agreement" to the ballot language. I have asked the Secretariat to make available to you a written memorandum dated 29 March 1983, which I asked to be circulated as a written petition. Those of you who have that

(Mr. Clark)

document will be aware that annexed thereto is a copy of a telegram from Ambassador Zeder to Ambassador Salii dated 11 November 1982, a telegram known in some circles as the "smoking gun" telegram. That telegram contained new and misleading language for Proposition One (B). With no doubt unintentional irony, Ambassador Zeder described the form of language, apparently drafted in Washington, as requiring "minor modifications to the language actually included in the OEK Bill". He continued, "I understand, however, that under the provisions of the bill you can agree to the following ballot language on behalf of the Government of Palau. I therefore seek confirmation by return cable of agreement to this language by the Government of Palau."

A gentle request in an effort to obtain agreement, you might say. "Representations by the Administering Authority" is how a Visiting Mission describes a telegram on page 20 of its Report, but the language I have just quoted was followed by a kicker, "I understand that the High Commissioner is prepared to act expeditiously on the OEK legislation as soon as our confirmation of the ballot language is complete."

That was a threat to veto the Palauan legislation if the United States did not get what it wanted. Now, veto is a dirty word when the action it describes is carried out by a colonial Power. We have been told many times in this chamber how the United States power of veto has been reduced since the establishment of constitutional governments in the Micronesian entities. The United States Department of the Interior, Secretarial Order 3039, which governs the matter, provides, however, for the "suspension" of Palauan legislation by the High Commissioner. Suspension sends such legislation into the same outer darkness as a veto. As the Secretarial Order puts it, "a law or any part thereof so suspended shall be void and of no effect."

The threat of veto got results. On 12 December, the Interior Department telegraphed the High Commissioner that "Content in exchange cables between Ambassador Zeder and Ambassador Salii is satisfactory to OMSM and TIA. You are authorized to approve OEK legislation authorizing plebiscite on Compact of Free Association". "Agreement" is perhaps the appropriate word to describe

(Mr. Clark)

what happened, but it was an agreement process in which it was clear who had the upper hand. And it was certainly not one in which the legislative branch in Palau deemed the language "appropriate", as Ambassador Sherman put it.

One might contend that, since the plebiscite is over and done with, this is all water over the reef. After all, the Supreme Court straightened out the wording. But the matter should never have been resolved so late in the day. If this Council had been more aggressive in its preparations for the ballot, the problem could have been corrected well in advance, and doubts about the whole process resolved.

I turn to the question of the result of the vote. In his opening statement to this Council on 16 May, Ambassador Sherman asserted that: "I will simply note at this time that the President of Palau has certified the results of the plebiscite, which show that approximately 62 per cent of the voters favoured the political relationship and status of free association as set forth in the Compact of Free Association. This approval of the Compact is a strong mandate for free association.

"I would note also that a ballot question directly seeking popular approval of an agreement related to the Compact, which the Government of Palau sought to employ as a means of reconciling a provision of the Palauan Constitution with the Compact, fell short of the three-fourths approval it was considered to require, although a majority of the voters accepted the agreement by voting affirmatively on that particular question. The United States has publicly stated its view that, as a consequence, the Palauan leadership must take the initiative in reconciling the constitutional provision with the Compact. We are aware that this issue is the subject of intensive discussion within Palau at the present time, and the United States remains prepared to join in that process." (T/PV.1544, pp. 22-23)

(Mr. Clark)

That is, again, not quite accurate. What is referred to as "an agreement related to the Compact" is, in fact, an amalgam of several sections of the Compact, notably, sections 311, 312, and 314 and the agreement regarding radioactive, chemical and biological substances, which modifies those sections in significant ways. The sections of the Compact and the Agreement in question do not run afoul of a provision of the Constitution, but of two separate provisions, article II, section 3, and article XIII, Section 6.

One might, moreover, suggest that the representative of the United States has placed the cart before the horse in his suggestion that "the Palauan leadership must take the initiative in reconciling the constitutional provisions with the Compact." Surely the real challenge is to modify the Compact in such a way as to reconcile it with the Constitution.

(Mr. Clark)

The Constitution is the fundamental law of Palau. It was developed in fulfillment of the requirement in Article 76 of the United Nations Charter that the Administering Authority promote the development of self-government. The referendum at which it was adopted was observed by this body. I am not aware that the United States has ever modified its Constitution in order to engage in international relations. It has always expected other potential parties to treaties to come to terms with the United States Constitution. In the multilateral sphere it has often entered into treaties with reservations protecting its constitutional position. It often forgoes treaty relations for constitutional reasons. Why should Palau behave otherwise?

In my written material of 29 March -- which has been made available to the Council -- I have explained why I believe that the failure of Proposition One (B), as finally worded to obtain a 75 per cent majority, means that the Compact package was simply defeated in the plebiscite. I argued that that was so in the light of (a) the relevant language of the Palau Constitution, (b) the language of the ballot, and (c) the provisions of article I of the Radioactive Agreement. It is not feasible to go over each step of the argument here, but I do wish to recall some salient points and to draw the Council's attention to the written version.

One preliminary point should be stressed: section 411 of the Compact asserts that the Compact is to "come into effect" subsequent to the completion of various steps which include "Approval by the Government of Palau... in accordance with its constitutional processes". An unfortunate precedent for ignoring the requirements of the Compact was set when section 412's requirement of simultaneity for the plebiscite in the three entities was put aside. Let us not ignore the rather basic requirements of section 411 in the same way. The constitutional processes of Palau must include both the procedures and any substantive requirements of its Constitution.

I shall now refer to the Constitution. Article II, section 3, of the Constitution provides:

"Major governmental powers including but not limited to defense, security or foreign affairs may be delegated by treaty, compact, or other agreement between the sovereign Republic of Palau and another

(Mr. Clark)

sovereign nation or international organization, provided such treaty, compact or agreement shall be approved by not less than two thirds (2/3) of the members of each House of the Olbiil Era Kelulau and by a majority of the votes cast in a nation-wide referendum conducted for such purpose, provided that any such agreement which authorizes use, testing, storage or disposal of nuclear, toxic chemical, gas or biological weapons intended for use in warfare shall require approval of not less than three fourths (3/4) of the votes cast in such referendum."

That language is obviously designed with the proposed Compact in mind. Indeed, the two documents were being drafted at the same time and the drafters of the Constitution had in mind limiting some activities that the Compact might have permitted. The section provides for the delegation of governmental powers to another nation or to an international organization. "Free association" involves the delegation of some powers over foreign affairs and defence. Such a delegation, according to the section of the Constitution, is to take place by a "treaty, compact or other agreement".

There are two provisos in the section concerning how the delegation is to be exercised, that is to say, what constitutional processes are involved. The first proviso says that "such treaty, compact or agreement" shall be approved by not less than two thirds (2/3) of the members of each House of the Olbiil Era Kelulau and by a majority of the votes cast" in a referendum. The import of that proviso is clear enough, although I understand that the question of whether the Senate in Palau gave the appropriate approval is one of the subjects addressed in current litigation in the Supreme Court of Palau.

The second proviso says that "any such agreement" which authorizes certain nuclear activities "shall require approval of not less than three fourths (3/4) of the votes cast in such referendum". Members will notice that, unlike the first proviso - which echoes the words "treaty", "compact" and "agreement" as used at the beginning of the section - the second proviso speaks only of "any such agreement". What is the antecedent of "such" in the words "such agreement"? Surely it is "treaty, compact or other agreement" as used at the beginning of the section. Indeed, it cannot grammatically be anything else.

(Mr. Clark)

In short, an international agreement, whatever it is called, which delegates major governmental powers and which authorizes the proscribed nuclear activity requires a 75-per-cent-majority for approval in a referendum. If it does not receive that majority it is defeated; it fails. The Compact of Free Association and its associated documents delegate major governmental powers to the United States. They permit activities prohibited by section 3 of article II of the Constitution without a 75-per-cent-majority. The Compact package did not obtain a 75-per-cent-majority. The "constitutional processes" of Palau were not complied with.

The form of the ballot - with its two separate questions, One (A) and One (B) - ultimately obscured the implications of what seems to be the plain meaning of the Constitution - to say nothing of the intention of the drafters. But even when one turns to the ballot language, it becomes clear that it is the very heart of the Compact that was defeated in the balloting.

I turn now to the ballot language. The relevant language of the ballot reads:

"Before the Compact can take effect section 314 under question (B) below must also be approved by at least seventy-five (75) per cent of the votes cast."

Question (B) reads:

"Do you approve of the agreement concerning radioactive, chemical and biological materials concluded pursuant to section 314 of the Compact of Free Association?"

The gist of this is plain enough. Voters were told that the Compact could not take effect unless at least 75 per cent of them answered question one (B) in the affirmative. Sufficient votes were not forthcoming; the proposition was defeated according to its own terms.



(Mr. Clark)

None of the language was as precise as it might have been. First, neither the instruction to voters nor the proposition itself mentioned that it was the Palau Constitution that required submission of the question. Thus the uninformed voter did not necessarily know why it was that the Compact could not "Take effect" - whether it was because of something in the Compact itself or something in the general law, including the Palau Constitution. Secondly, the instruction finally used said that "section 314 under question (B) below" must be approved by a 75 per cent majority. The question as defined by the instruction asked for approval of section 314, and the question itself asked for approval of the agreement. The draftmanship is sloppy. Technically both section 314 and the radioactivity agreement, which is a modification of the section and incorporates it by reference, required approval under the Constitution. One thing at least must have been clear to the voters: if question (B) failed to obtain 75 per cent of the votes, then the Compact could not "take effect". "Take effect" is not a term of art defined in the Constitution or in section 411 of the Compact, where it also appears. One can hardly expect the voters to do other than give it its ordinary meaning. They must have understood it to mean that the Compact package would be defeated if less than a 75 per cent majority was obtained. The voters were asked for a 75 per cent majority, and they did not give it.

Article I of the radioactivity agreement provides:

"In accordance with Article II, Section 3, and Article XIII, Section 6, of the Constitution of the Republic of Palau, the Government of Palau shall seek approval of this Agreement by not less than three fourths of the votes cast in a referendum in which this specific question shall be presented in conjunction with the plebiscite on the Compact."

By the preamble and article II of the radioactivity agreement, section 314 of the Compact was to be "incorporated by reference into, and become a part of," the agreement.

(Mr. Clark)

The Government of Palau did just what it promised to do. It sought approval of the agreement in a referendum held "in conjunction with" the referendum on the plebiscite. It failed to obtain the necessary votes. The agreement incorporating section 314 was defeated. The Compact cannot "take effect". We are driven back again to the terms of the Constitution and the ballot.

Perhaps I am labouring the obvious. Section 411 of the Compact speaks of approval by Palau's constitutional processes. Those constitutional processes include a referendum that meets constitutional requirements. Yet I detect in some of the speeches delivered here this week a disposition to treat the Palau Constitution as a mere inconvenient technicality to be brushed aside or slid by. The Constitution of Palau is not a mere technicality; it need not bend inexorably to the needs of the Administering Authority. The time is ripe for the Administering Authority to consult with Palau in order to find a way to reconcile the status of free association evidently desired by the voters with the provisions of their Constitution, about which they also feel strongly. This Council must not allow itself to become a party to the subversion of Palauan constitutional processes.

The PRESIDENT: I now call upon Mr. Julian Riklon.

Mr. RIKLON: I thank the President and members of the Council for this opportunity to appear here today. I am from Rongelap and Kwajalein Atolls in the Marshalls.

The people of Rongelap and other northern islands contaminated with radiation have suffered from serious health problems for many years in isolation from the rest of the world. In spite of an alarming number of health problems the attitude of the United States as Administering Authority has been one of covering up information and downplaying the severity of the situation, when

(Mr. Riklon)

instead the United States should be providing broad-ranging health treatment programmes for the Marshallese.

In 1954 the United States tested its largest above-ground hydrogen bomb at Bikini - the Bravo test. Although it was more than 1,000 times larger than the Hiroshima bomb, the Rongelap people who lived nearby were not evacuated, nor were they even warned that there was going to be a test, much less told what precautions to take to prevent exposure to radiation. Evacuation came two days after the test. On Rongelap the fall-out was like a snow storm, and by nightfall people began to experience vomiting and diarrhoea. The United States Atomic Energy Commission called Bravo a "routine atomic test", but there was nothing routine about that test.

To underscore the mysterious nature of this particular hydrogen-bomb test, this is what we heard from Mr. Gene Curbow, a commander of the Air Force Weather Unit at Rongerik Atoll: he said that there were no wind shifts before or after the Bravo test - a complete departure from the continual claim of the United States that the winds shifted slightly just after the Bravo bomb was exploded. We in the Marshall Islands are appalled at this new revelation and charge the United States Government with criminal negligence, as well as with the complete violation of the United Nations Trusteeship Agreement, an agreement of which the United States has made a complete mockery.

Within days of the Rongelap people's evacuation from their atoll to Kwajalein, burns began to develop on their backs, necks and feet. Despite this, the United States Government told the world that there were no burns among the people and that all were reported to be well. In fact, a Rongelap woman said:

"When we arrived on Kwajalein we started getting burns all over our bodies and people were feeling dizzy and weak ... After two days something appeared under my fingernails and then my fingernails came off and my fingers bled. We all had burns on our ears, shoulders, necks and feet. and our eyes were very sore."

(Mr. Riklon)

Since then United States Government scientists have regularly checked the Rongelap and Utirik people for health problems. But the attitude of the Government scientists was summed up in 1957, three years after the Bravo test, when they let us return to our radioactive islands:

"Even though the radioactive contamination of Rongelap is considered perfectly safe for human habitation, the levels of activity are higher than those found in other **inhabited** locations in the world. The habitation of these people on the island will afford most valuable radiation data on human beings."

The Government scientists have never provided us with decent medical care, and they do not even have individual personal medical records to explain what **exactly is** wrong with us. This type of treatment has been going on for some 30 years. The medical programme's focus on research rather than treatment has been criticized by many medical experts. This is why the Rongelap people refused the annual survey in 1972 and why they have been requesting medical assistance by doctors independent of the United States Government.

(Mr. Riklon)

The list of health problems continues to grow. More than 60 per cent of the children on Rongelap have been taken to the United States for surgery to remove thyroid tumours, many of which have been cancerous. Our women suffer from a high number of miscarriages and stillbirths. From 1954 to 1958 the women exposed to the Bravo test had more than twice as many miscarriages as normal women. In 1972 Leko J Anjain died of leukemia at the age of 19.

Government scientists admit that, 30 years after the bomb, throid problems are on the increase. Yet, to our concern, they consistently refuse to check into or treat the many other health problems we have.

Moreover, for years Government scientists told the Utirik people not to worry, because their exposure was too small to cause any future harm. These same scientists refused to study the children on Utirik because they insisted there would be no problems; they had received less than one tenth the exposure of the Rongelap people. But suddenly in 1976 the Utirik people showed a higher level of thyroid cancer than the Rongelap people, proving the scientists wrong. This is just one more reason why the Marshallese people have lost faith in Government scientists.

During the 1970s United States scientists continued to reassure us that everything was all right. Then, following a 1978 radiation study of the northern island, these scientists came to Rongelap and told the people not to use the northern islands in the atoll because they were too radioactive. But we have been using these islands for more than 20 years, ever since United States scientists told the people it was safe in 1957. Many Rongelap people who were not exposed to the Bravo test but later returned to live on Rongelap now fear for their health. This fear has given rise to another problem, and that is the psychological problem. More and more Rongelap people have left Rongelap because they are afraid to live there. They are afraid that they might have deformed babies or cancer or other radiation-related diseases. Although they are deeply homesick, they are afraid of their own home island.

A most disturbing aspect of our exposure to radiation from the nuclear tests is that the United States Government has since 1954 claimed that the Bravo test fallout was an accident, caused by a sudden shift in winds.

(Mr. Riklon)

Recently, however, United States Air Force weathermen involved in the Bravo test have publicly stated that the fall-out from the Bravo test was no accident. The winds were in fact blowing directly towards Rongelap and other inhabited islands when the bomb was exploded. This weather condition was communicated to the military command, but they chose to ignore the health and safety of the people in favour of testing the largest hydrogen bomb ever exploded. Added to this is the fact that in 1946, before the first series of small bomb tests, the people of Rongelap and surrounding islands were evacuated to safety. Why were these same precautions not taken in 1954 when the largest hydrogen bomb was detonated? The answer appears to be quite obvious.

Recent United States Government reports now say that as many as 13 atolls and islands were exposed to fall-out from the 66 nuclear tests. Instead of spending time and money on medical programmes to investigate and treat the wide-ranging health problems that are reported on these islands, the United States Government is spending hundreds of thousands of dollars on full-colour booklets, in both Marshallese and English, designed to allay the fears of the Marshallese. But, with more and more Rongelap, Utirik and other people going to the United States to have surgery for thyroid problems, we wonder why the United States Government spends so much money to convince us that everything is all right. We have been treated like guinea pigs by the United States Government scientists, and now we know that the contamination of the Marshallese people was not an accident.

The irony of the situation is, of course, that the United States is obligated to "protect the health of the people" but has simply chosen to ignore this aspect of its United Nations mandate in favour of military interests. But it is more than just an academic concern for us. It is our life and our children's future that are at stake.

Over the past few years we, the Kwajalein landowners, as well as other people from all over the Marshall Islands, have been living with and sharing Ebeye Island's miserable health and sanitation conditions. The overcrowded living conditions, poor sanitation and inadequate hospital have made many people believe that Ebeye is like a biological time-bomb which could go off at any moment.

(Mr. Riklon)

Over the years many Trust Territory reports have said that the shortage of water and the lack of proper sanitary facilities on Ebeye have been the major cause of sickness. Epidemics of influenza and diarrhoea often claim the lives of the young children on Ebeye. When one walks through the three graveyards on Ebeye, one finds that there seem to be more children buried there than older folks. It is sad that many parents on Ebeye bury their children. I always thought that children were the ones who should bury their parents.

Ebeye hospital has always been understaffed and ill-equipped to deal with our health problems. Two medical doctors are not enough to take care of the population of 8,000, and sad to say Marshallese often have difficulties gaining medical treatment at the excellent hospital on Kwajalein Island, which is about three miles away. There have been numerous cases of people near death and unable to receive proper care on Ebeye being rushed to Kwajalein hospital, only to be stopped by a security guard and refused entry to Kwajalein. Many of these people, mostly younger children, die on their return to Ebeye. Although the Army says this is not a problem any more, our experience shows that it is happening even today. If, after 30 years of administration, the Trust Territory cannot provide decent medical facilities on Ebeye, then I believe it is the responsibility of the United States Army to do so.

One of the promises of the Trust Territory Government has been better education for the people. Ebeye has almost one third of the Marshallese population, yet there has never been a high school on the island. And Marshallese cannot go to the schools on Kwajalein, only three miles away, because they are segregated, for Americans only. Even the children of the hundreds of Marshallese who work at the Kwajalein Missile Range cannot go to school on Kwajalein. Why is this kind of discrimination allowed to exist in a United States Trust Territory?

As for the Marshallese workers on Kwajalein, they are discriminated against in terms of jobs and pay. Marshallese who have worked on Kwajalein for many years will train a new American employee, and then within weeks that American will be earning a much larger salary than the Marshallese. This and similar treatment of Marshallese workers on Kwajalein has been documented in many ways.

(Mr. Riklon)

It is these living problems on Ebeye, together with the fact that we cannot use two thirds of our lagoon for fishing or many of our islands for farming, which make the Kwajalein landowners feel like prisoners on Ebeye. There are more than 5,000 Kwajalein landowners who have claims to many of the 90-odd islands in Kwajalein, but we remain displaced on Ebeye because the Army uses the lagoon for testing missiles.

This is why "Operation Homecoming", the four-month-long protest resettlement of our home islands last year, was so important to the Kwajalein landowners. All of us were glad to be on our own islands. We felt a sense of freedom and peace. It was good to eat our native food once again and to do the things we cannot do on Ebeye. Once again we felt that there was surely no place like home.

Since the three-year interim use agreement was signed in October 1982 the military treatment of the Kwajalein people has become worse, with many new restrictions imposed on the Ebeye community.



(Mr. Riklon)

The army has continued its policy of closing the Kwajalein bank to the Marshallese, except on Saturdays. Until recently there was no bank on Ebeye. On Saturdays a limited number of Marshallese are allowed on Kwajalein. When we arrive at the pier we are herded into a bus and driven to the bank. Ten people at a time are allowed to carry out their business in the bank, while the rest must sit in the bus, guarded by armed security police. When everyone is finished we are returned to the pier to catch the boat back to Ebeye.

Additionally, the daily searches of the 500 Marshallese workers continue; every day when the workers leave Kwajalein Island army security police search their bags and take cigarettes, candy and Cokes from the Marshallese.

We understand that beginning in June Marshallese businessmen will no longer be able to receive supplies through Kwajalein. The army says this is to encourage the people to be more self-sufficient, but no alternative means of getting that merchandise has been developed. The army is intent on cutting Ebeye off immediately, instead of working with the people on a long-range self-sufficiency programme, which we would welcome. And the so-called Community Relations Council is not helping us because the army personnel on Kwajalein turn a deaf ear to our concerns.

We are learning much from this treatment, and the Kwajalein landowners are looking forward to 1985.

We, the Kwajalein landowners, are truly second-class citizens in our own islands. Does the United Nations trusteeship provision obligating the United States to "protect the rights and fundamental freedoms of all elements of the population without discrimination" apply only to other parts of Micronesia and not to Ebeye and Kwajalein?

The people of Rongelap are today contaminated with high levels of radiation. My islands in Kwajalein have been taken for military use. Like many Marshallese, I have no place to go but Ebeye. I strongly urge the Trusteeship Council to support our desire for independent medical review and treatment of our health problems resulting from the nuclear testing. In addition we believe it is necessary for the United Nations to monitor the situation at Kwajalein to ensure that the Administering Authority works with the Marshallese people, and not against us.

(Mr. Riklon)

Finally I should like to direct the Council's attention to the Compact of Free Association which the four entities must decide on. As the Council is aware, this document will bring about the end of the Trusteeship Agreement with the United States, established 37 years ago, whereby the United States promised, among other things, to protect the inhabitants against the loss of their resources, to protect the rights and fundamental freedoms of all elements of the population without discrimination, and to protect the health of the inhabitants. Because of these broken promises, I am very concerned as to what would happen to us if this Compact of Free Association were ratified. I know that the majority of the people of the Marshall Islands do not understand this document, and to make a fair and sound decision they must understand fully how it will affect their future. Therefore I wish to request this Council to see to it that our plebiscite will be conducted in a proper and democratic way. We do not want interference from any country, and we certainly do not want the United States Government to blackmail the people into voting for the Compact, as they did the people of Palau.

The PRESIDENT: I call on Ms. Bernie Keldermans.

Ms. KELDERMANS: I want to thank the members of the Trusteeship Council for this opportunity to address them about a matter of urgent concern to me and the people of my country.

My name is Bernie Tosie Keldermans. I live in Palau, the western end of Micronesia. Palau, a country of 14,000 people, has been part of the United States Trust Territory of the Pacific Islands since 1946. Since 1969 the United States and Palau have been negotiating to end the trustee relationship and to bring about a more independent status for Palau. I have travelled more than 10,000 miles to address this issue of Palauan independence.

I was born and raised in Palau. Educated in the United States, I am the science co-ordinator for the Palauan elementary schools. I am active in the Catholic Church. I am a Councilwoman from Koror, representing over 1,000 people. In the mid-1970s I took a leading role in the citizen movement to prevent construction of a Japanese-United States-Iranian oil superport which would have dramatically upset our marine environment, so essential to our

(Ms. Keldermans)

economic well-being. Subsequently I became involved in the struggle for Palauan self-determination, for our nuclear-free Constitution. Since 1979 I have spent much of my free time working to promote and maintain our Constitution, which has the overwhelming support of our people.

In 1947, following the Second World War, the United Nations designated Micronesia, which includes Palau, the world's only strategic Trust Territory, granting the United States power to use the islands for military activities. However, the Trusteeship Agreement requires the United States to

"promote the development of the inhabitants of the Trust Territory towards self-government or independence as may be appropriate ... and to this end ... shall promote the economic advancement and self-sufficiency of the inhabitants, ... encourage the development of fisheries, agriculture, and industries; protect the inhabitants against the loss of their lands and resources; and ... protect the health of the inhabitants".

(T/Agreement/11, article 6)

Those are very encouraging words, I must say.

As a student I was taught that the United States stood for democracy and freedom. That is a lesson that has been taught to our people over and over for the past 30-odd years. Our lives have been changed by the United States. My people believed the United States Government when it said it would liberate us. We trusted the United States Government. And this does not exclude the United Nations. However, now, many years later, we have learned through a painful process the true intentions of the United States: to use our lands for its own military and strategic purposes.

In the late 1960s the United States Government took the first steps towards negotiating Palau's future status. Saying that it promoted the long-term goal of self-government, the United States encouraged us to write our own constitution. At that time we tried to apply what we had learned from the United States about democracy. Palau's Constitution is perhaps unique because it was written by all the people of Palau through a process of village meetings. This process allowed for widespread participation by Palauans in constructing this nuclear-free Constitution.

(Ms. Keldermans)

Because I am a teacher I was very active in the process. I helped many people understand the need for the Constitution. It must be remembered that Palauans were not used to this form of government as we have always had our own leaders. Our Constitution, however, slowly evolved. One of the most important sections was the nuclear-free one. Palauans decided to ban the storage, transport and testing of nuclear materials on their land or in their surrounding waters.

Our Constitution has been approved in three separate referenda by an overwhelming majority of the people. The first vote, in July 1979, was observed and approved by the United Nations - by this body. Immediately after this first vote, in which 92 per cent voted for the Constitution, the United States entered its objections and sought to invalidate the vote. It was then that we first heard about the Compact of Free Association, because we were told that our Constitution was not compatible with the Compact. My people, however, wanted this Constitution because they drafted it themselves. They believed that they were following the democratic principles they had been taught by the United States.

In a second vote the Palauans turned down a revised text of the Constitution because the United States had succeeded in having the anti-nuclear clause removed. By the time of the third vote, in July 1980, the people of Palau were under extreme pressure from the United States to vote against the original nuclear-free Constitution. We were strong in our commitment, however. We were afraid of nuclear weapons. We have seen what happened at Hiroshima and Nagasaki and in the Marshall Islands. We did not want to make our island a target. We did not want our land to be used to inflict harm on other people, so again we approved the original Constitution by 79 per cent. The Constitution finally came into force on 7 January 1981.

While we were voting on our Constitution, the negotiations for the Compact of Free Association were taking place at a high government level without input from the people - the real people. Throughout the negotiations neither the United States nor our Government kept us informed about the status and the nature of the Compact. We heard nothing until we were told that the then President-elect had initialled the Compact.

Until August 1982, when Ambassador Lazarus Salii signed the Compact, we heard no more news. We were told in September that the plebiscite would be held in November, even though we had not even seen a copy of the Compact, which is, as the Council knows, a complicated legal document hundreds of pages long.

The plebiscite was then postponed to February and the people themselves asked if it could be postponed until November, but we did not get any good response from our Government or from the United States Government.

In spite of the short amount of time, the Government started the required political education, which was supervised by our Ambassador to the negotiations. Our people complained that someone who had conducted the negotiations could not be impartial about this education.

The Compact itself was written in English and later in Palauan. The English language is not spoken by most Palauans. The translations were inadequate at best and incorrect at worst. Even so, the United States Government allocated \$300,000 to educate 14,000 Palauans about the Compact. This money was spent on campaigns for the Compact by the Government and included food and entertainment to encourage a pro-Compact vote. People were told that the Compact would not violate the Constitution and would provide Palau with money and independence. The people were taught to see free association as offering a magical freedom for our country. A "People's Fact Sheet" of about eight pages, in Palauan and in English, was finally issued in January 1982 in response to complaints by the people. Yet the information given only mentioned the good points of the Compact, not the bad points. This fact sheet never any mentioned any conflict between the Compact and our Constitution. My people never received adequate information and the majority did not know what they were voting on. The process was such that some islands had not even seen the Compact when they voted. The political education turned into a campaign

The vote on the Compact involved two parts. We had to approve the Compact and agree separately to the nuclear provision, section 314 of the Compact. Our Constitution stipulates that to change its anti-nuclear provision it is necessary to have 75-per-cent voter approval.

Before the plebiscite, Ambassador Zeder told our Government that without the 75-per-cent approval the Compact would be defeated and this is what our Government publicly told our people. However, the ballot question and the nuclear provision received only 53-per-cent approval, which was not enough. As far as the people are concerned the issue of the Compact is dead, because the Compact and the Constitution cannot be reconciled.

(His. Keldermans)

The United States tells us that the conflict between the Compact and the Constitution is an internal problem and that we are responsible for reconciling our Constitution with the Compact of Free Association. This is not what my people believe. They have clearly rejected the Compact, despite intensive pressure from the United States.

The terms of the Compact give the United States military access to one third of our land for use as a guerrilla training-ground and for port and airport facilities, as well as for nuclear-weapon storage. The Compact also denies us eminent domain over our land and an enlarged exclusive economic zone in our coastal waters. Our land and our water are our only resources and are vital to our hope for a self-sufficient economy. We would also lose our sovereignty with the Compact, as the United States will have the right to determine when our security is being threatened. Our only desire is to live our own life and determine our own affairs.

The United States is so concerned about its military options that it has steadfastly refused to accept the people's wishes. We have said "No" four times to the United States nuclear intentions in four referenda in four years. When will we be heard? We have voted democratically and the United States must accept our vote. Does democracy only apply in the United States and not in Palau?

The Palauan people need time to decide on their own kind of government and economy without interference. We call upon the Trusteeship Council of the United Nations to support our right to choose the future of Palau, rather than to support the attempts of the United States to determine our future for us.

I thank the Council for having given me this opportunity of appearing here today.

The PRESIDENT: The Council has now heard the statements of all the petitioners and I should like to ask if any member wishes to put questions to any of the petitioners?

Mr. MORTIMER (United Kingdom): I have only one question to ask this morning of the petitioners, specifically of Mr. Butler, who made the first statement.

If I may summarize what some of the petitioners have said, there exists a fundamental contradiction between the defence requirements of the Compact of Free Association and the nuclear-free provisions of the Palau Constitution. It is necessary for these to be reconciled. Ambassador Sherman told us on 16 May - I paraphrase him, perhaps - that it was for the Palauan Government to take the first steps. The petitioners this morning have taken the opposite view and said it is for the United States to amend the Compact to bring it into line with the Palau Constitution. Mr. Butler in his petition this morning stated:

"No one can argue that it is improper for the Administering Power to take such steps as are necessary to protect the security of the area and the security of the country of the Administering Power provided that these steps do not interfere with the fundamental right of the Belauans to exercise freely their political will. This is the crux of our issue." (supra, p. 6)

I believe that statement is an accurate reflection of the situation, but I should like to ask him to suggest how the Administering Authority might amend the Compact while at the same time ensuring that its defence commitments to the area are maintained.

Mr. BUTLER: Quite frankly, I do not understand the import of that question. Fundamentally, the Palauans have expressed their political will through their constitutional convention and have opted, in effect, to try to maintain a nuclear-free area the nuclear-free environment in which they choose to live. That being so, I do not know whether the import of the question is that it is necessary to have nuclear installations or radioactive materials in an area in order to protect the security of the area or the security of the Administering Power.

(Mr. Butler)

In our view these instruments are not necessary in this particular part of the world and, if it is the fundamental choice of the Palauan people to be free from the dangers arising from the presence of radioactive materials, that is their decision; it is not for the Administering Power or any other Power to decide. The basic right of self-determination of peoples gives them that right, and that right has to be protected.

Mr. MORTIMER (United Kingdom): I thank Mr. Butler for that answer, I was simply wishing to pick up the point that he recognized that the Administering Authority had defence commitments towards the area and I was asking him to be specific about how those defence commitments could be maintained while at the same time amending article 314. This is obviously something that we can come back to with the Administering Authority later in our discussions.

Mr. POUDADE (France) (interpretation from French): I should like, before asking a question, to welcome Ms. Bernie Keldermans, because it is very pleasant at last to have some petitioners from the Territory. She will remember participating in a public meeting that we held in Koror, which was very heated. I thank her for her statement and welcome her here in the Trusteeship Council.

I should first like to ask several questions of Mr. Julian Riklon. He mentioned the report of the Visiting Mission on the situation in Ebeye and said that more children than adults had died in Ebeye. Does he have any figures on this which could clarify the situation for the Council?

Mr. RIKLON: Unfortunately, I am not able to provide any figures concerning the children who have died over the past few years.

Mr. POUDADE (France) (interpretation from French): I think it would be valuable if we could have rather more precise figures because, following a petition submitted to the Council last year - and I think it was submitted by Mr. Riklon - Miss Harden, the representative of the United Kingdom, accompanied me to Kwajalein. Miss Harden had not been able to make an appointment for us



(Mr. Poudade, France)

to go to check that the emergency case which the hospital on Ebeye could not accept had been treated at Kwajalein. However, Miss Harden did this. She met the doctor in charge of the Ebeye hospital on the one hand and the doctor in charge of the Kwajalein hospital on the other and she was unable to confirm what was said in a petition last year to the effect that a person had died because he was refused admission to the Kwajalein hospital. While Miss Harden was there, there was a child who was present during the strike and the "sail-in" at Kwajalein and had dysentery or diarrhoea and was treated in the Kwajalein hospital. So if Mr. Riklon could give us some figures this would help us.

I should like to ask him another question. He talked about the case of the Kwajalein bank to which the Ebeye inhabitants could go only on Saturdays. No doubt that was due to a decision taken by the military authorities and the person responsible for banks might of course vary the rules a little. But do the Ebeye banks operate normally now?

Mr. RIKLON: In reply to the first question, the representative of France could obtain any medical records through the World Health Organization. If that is not enough I shall try when I go back to obtain the medical records he needs and supply the Council with them.

Mr. POUDADE (France) (interpretation from French): No doubt the Secretariat could try to obtain that information.

Could Mr. Riklon tell us how the banks in Ebeye are now operating, since the "sail-in"?

Mr. RIKLON: As I said in my statement, the operation has not been changed. The Marshallese go to the bank only on Saturday. As they get off the boat they are put on to a bus and hurried to the bank; then 10 people get out and carry out their transactions in the bank and are then immediately taken back to the bus, driven to the pier and eventually are on their way to Ebeye.

Mr. POUDADE (France) (interpretation from French): No doubt the time has come to seek information from the Administering Authority, because we are getting contradictory information. On the one hand we have the information provided by the Administering Authority, which are more or less satisfactory, and on the other we have the information from the petitioners, which is less satisfactory. Perhaps for the time being the commandant of the base could be asked to be less strict and less military in applying the rules. I have no further questions except to ask Mr. Butler and Mr. Clark if they were in Palau on the day of the plebiscite.

Mr. CLARK: The answer to the question is "No".

Mr. POUDADE (France) (interpretation from French): Mr. William Butler has asked for an international commission of inquiry. It would undoubtedly have been useful for the Minority Rights Group to follow the campaign on the day of the plebiscite in Palau.

The PRESIDENT: Does Mr. Butler wish to say whether he was present?

Mr. BUTLER: I was not present at the plebiscite either.

The PRESIDENT: I hope that later on, when the representatives of the Administering Authority address us, they will cover that point which emerged from the question of the representative of France about the banking facilities.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): My question has to do not so much with the statements made by the petitioners today as with a more technical point. I address you, Sir, as President of the Council. In connection with petitioner statements in the

(Mr. Berezovsky, USSR)

Trusteeship Council today, attention has been drawn, to the fact that together with the oral petitions, a written petition by Mr. Roger Clark, dated 29 March 1983 and addressed to the President of the Trusteeship Council on 22 April 1983, has been distributed. Unfortunately, we have not had a chance to look at this petition, because it has not been distributed to members of the Council in good time. Today is 20 May. I would like to ask how such late submission to the Council of documents - in this case a petition - can be explained. Is this an isolated incident or are there other petitions which perhaps members of the Council have not had an opportunity to study?

The PRESIDENT Perhaps I could just explain the facts as I know them. This piece of paper, which is headed "To Micronesia Support Committee from Roger S. Clark" was placed in front of me today. I understand that it was received by the Secretariat today. It is not, as members can see, a petition; it is merely a lengthy document which has come into my hands, and that is rather different from being a petition. It has no official status, and the present position is that it will not appear in any way in the record of the proceedings of the Council. If it is the wish of Professor Clark that this should appear in the record of proceedings of the Council and be considered an official petition, it is up to him to take the necessary steps. Professor Clark delivered his petition this morning, and that of course was processed in the normal way and will appear in the record of proceedings of the Council. At the moment, as I say, this is simply a piece of paper which has come into my hands and, I daresay, may have come into the hands of the Soviet delegate, along with many other pieces of paper, but it is not an official petition.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): I referred to two dates on purpose. One, 29 March, when this document was prepared by Professor Roger Clark, and the other, 22 April 1983. The covering letter reads as follows:

(spoke in English)

I would be grateful if the enclosed material would be treated as a written petition by the International League of Human Rights to the Trusteeship Council and duly circulated.

The League would also like to present an oral petition concerning this and related matters at the meeting of the Council which we understand begins on 16 May.

(continued in Russian)

The signature is that of Mrs. Nina Shea, Director of the Programme. This letter is dated 22 April and it contains a clear request to the President of the Trusteeship Council that the document be treated as a written petition. That is why I asked my question. I would like to ask again whether this is an isolated case.

The PRESIDENT: The representative of the Soviet Union has the advantage over me because I have not seen that letter at all.

I suggest that we leave this matter until after lunch. There is clearly a bit of history as to what has happened to this piece of paper and what was decided by the Secretariat. I should therefore like to consult with the members of the Secretariat and Professor Clark and then, when we meet after lunch, I could give a full explanation to the Council. There is clearly a certain amount of research to be done because, as I said, until a few minutes ago I was unaware of the existence of the letter to which the Soviet representative referred.

Mr. POUDADE (France)(interpretation from French): I should like to speak in my capacity as the President of the forty-ninth session.

The representative of the Soviet Union asked whether there were other petitions that had not been circulated. That seems to imply that some petitions might deliberately be kept by the Secretariat or the former President with the intention of not distributing them. To clarify the matter - and I believe the Secretariat will confirm this - I should like to say that all the documents received during the entire forty-ninth session, including letters exchanged between the Government of Palau and the Administering Authority, have always been circulated either as petitions or as photocopies to all missions. At no time was there a document kept either by the Secretariat - and I am speaking on behalf of Mr. Abebe, who assisted me - or the presidency. Of course, in keeping with the rules of procedure, whenever we received a document a copy was sent to the Administering Authority. Therefore, as far as I know, I do not believe that a single document received by the former President has been kept and not circulated to the members of the Trusteeship Council.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics)(interpretation from Russian): The explanation just given by the representative of France, the former President of the Trusteeship Council, is completely satisfactory to us as regards the procedure for the distribution of documents. As is

(Mr. Berezovsky, USSR)

probably clear to the representative of France, the Soviet delegation did not make any accusation, charge or insinuation against the secretariat of the Trusteeship Council; nor was any accusation intended against the former President of the Trusteeship Council, Mr. Poudade, our very good friend. We asked a purely businesslike question, free of any insinuation whatever. It was a question prompted by this letter that I just received. It necessarily gave rise to the question.

We have great respect for the enormous amount of work done by the secretariat of the Trusteeship Council and by Mr. Abebe personally. There is no doubt about that. However, the appearance today of a document gave rise to our question.

As you, Mr. President, have said, you agreed that this piece of paper has a history that needs to be researched and clarified. You said it had not been given to members of the Council on time.

I shall end my remarks on this matter until the facts of the matter have been made clear, as the President said, perhaps at our next meeting - that is, of course, if the petitioners have no additional information on this matter and do not wish to say more about this unclear situation.

The PRESIDENT: I am particularly grateful for the statement by the representative of France which, as the representative of the Soviet Union has said, outlines in a complete and satisfactory way the procedures adopted by the President and the secretariat working with the President in dealing with such matters.

On the particular point of this document, the Secretary has asked to be allowed to speak and it would perhaps be sensible, if members agree, to ask him to tell us a little about his reaction to that document when it was received.

Mr. ABEBE (Secretary of the Council): The former President indeed received the communication from Professor Clark with all the attachments, and the Secretary was directed to contact Professor Clark as to how to proceed with publishing them. We agreed with Professor Clark to publish his letter and the memorandum of about 10 pages, together with a list of the attachments, and to indicate in a footnote that the attachments were available in the Secretariat's files for all to see. This is being done now, and I hope to be able to distribute the published petition very shortly.

The PRESIDENT: Would professor Clark like to add a word from his point of view? I call on him.

Mr. CLARK: I appreciate the opportunity to do so. Mr. Abebe has stated the matter exactly as it happened; everything was stated exactly as it took place.

The PRESIDENT: My understanding therefore is that it was agreed between the Secretariat and Professor Clark that this document, to which the Soviet Union representative referred, should be circulated today at the same time as Professor Clark delivered his oral petition. Is my understanding correct?  
I call on Professor Clark.

Mr. CLARK: I am not sure that we had an understanding about the timing of this operation. My understanding was that it would be circulated; we did not discuss the matter of precisely when it would be available.

The PRESIDENT: Is the representative of the Soviet Union satisfied now, or would he like a further investigation into this so as to be completely satisfied that there has been no suppression or lack of effort in coping with this particular document, which he now has in front of him?

Mr. BEREZOVSKY (Union of Soviet Socialist Republics)(interpretation from Russian): The Soviet delegation is not here to carry out further investigations into technical matters, although such matters do have serious political implications. I am satisfied with the explanations that have just been given by those who participated in this matter.

The PRESIDENT: These procedural matters are, as the representative of the Soviet Union has said, of considerable importance, and they can even have political aspects, which is why I have taken very seriously what he said and why I am grateful for the help of the representative of France and our Secretary in dealing with this question.

Are there any further questions to be raised with the petitioners? If there are none, I should like to thank the petitioners very warmly for their statements and for having given up much of their time to attend these meetings and to answer the questions which have been put to them by members of this Council. I should like to assure them that their petitions will be studied carefully and taken into account when the Council prepares its annual report to the Security Council.

The petitioners may now withdraw.

The petitioners withdrew.



The PRESIDENT: Since it is now almost one o'clock, I should like to propose that we now adjourn and that we should concentrate this afternoon on putting questions to the representatives of the Administering Authority.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics)(interpretation from Russian): In order to dot all the "i's", as the expression goes, the Soviet delegation would like to clarify one thing about the way in which the oral petitions submitted to the Council will be covered in the report that the Trusteeship Council will prepare and submit to the Security Council. I assume that these petitions will be reflected in that report in approximately the same manner as in the past - that is, as last year.

Mr. POUDADE (France) (interpretation from French): Before taking a position on this matter, I should like to request the Secretariat to be good enough to prepare for us a document indicating the cost for the past three years of printing, binding, issuing and so on of our last three reports to the Security Council.

I should also like to point out that the matter of the so-called inclusion of petitions in the report to the Security Council created some discomfort for several months for the former President, as the Soviet Union stated, for how can four delegations agree on the summary of any petition? Before we take a decision on the manner in which we shall deal with the petitions, therefore, I should like the Secretariat to provide us with the cost of our last three reports to the Security Council.

It goes without saying, of course, that oral petitions are reproduced in their entirety in the verbatim records of our proceedings.

Mr. MORTIMER (United Kingdom): I want only to associate myself fully with the words of my French colleague.

The PRESIDENT: I seem to remember from a reading of the verbatim records of last year's session that the representative of the Soviet Union has raised quite a difficult procedural matter. I doubt if we can altogether dispose of it in the three minutes available before one o'clock. However, I should just like to ask the representative of France for clarification as to the exact figures which he would like the Secretariat to submit to us. Could he perhaps enlarge on his request and state exactly whether this should include the cost of publishing in the various languages, or whether he means the entire report?

Mr. POUDADE (France) (interpretation from French): I should like the Secretariat to give us whatever it can, with or without translation into the various languages. It would be better for us to have as complete information as possible.

I should like to know the cost. Very simply, I want to know the cost of the report from the Trusteeship Council to the Security Council prior to the time the Council decided to include the famous summary of the petitions in it. I also want to know its cost now, since our decision to include that summary. I should then like to know the cost of the report with translation into the various languages and with all the copies, that is, what is the full cost of our report now.

It is a pity that we cannot do it, but I would be very curious to know just who in this chamber has read the report of the Trusteeship Council to the Security Council from beginning to end. No one will be surprised to hear that no member of the Security Council has ever read the report of the Trusteeship Council to the Security Council throughout. Why not? Because it has become so bulky and shapeless that it discourages the reader.

The PRESIDENT: I think that that additional clarification will be very helpful to our Secretary in getting the figures the representative of France has asked for.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): I am not absolutely clear about the concern expressed today so emphatically by the representative of France. This procedure was adopted by the Trusteeship Council, and we consider it is the correct procedure. As regards calculating the figures, I really do not remember by how many pages the report to the Security Council was increased because of the inclusion of the summary of oral petitions - I do not think it was increased by a great many pages - but those figures and the political importance of the report of the Trusteeship Council to the Security Council could hardly be compared. That is the first point. You cannot compare the two.

Secondly, if the representative of France feels that we should have comparative figures showing the cost of the report of the Trusteeship Council to the Security Council for several years back and that of the most recent report to the Security Council, that is, this year, he is obliging the Secretariat to go into a difficult process of calculations, because if we are to be accurate we should have to see how much the cost of producing documents has increased this year as compared with past years. The study should not be confined to this document but should apply to documents in general. We should have to allow for inflation and other factors as well. I think these calculations would lead us too far from the question we are now considering and the subject-matter of the report, the question of the situation of the peoples of the Trust Territory.

As for the statement, which I would call a very bold one, that none of the members of the Security Council read the reports of the Trusteeship Council, I think this should lie on the conscience of the representative of France. He should know best whether or not his delegation reads the reports produced in the United Nations. As far as my own delegation is concerned, I can say in all consciousness that the documents produced, especially politically important documents, are not only read but carefully studied by the Soviet delegation. Unfortunately, this year we have not yet been able to study this document in a definitive way, because it was produced on the eve of the session of the Trusteeship Council. It causes a certain amount of concern when the production of documents takes almost a year to complete. This is another matter.

(Mr. Berezovsky, USSR)

I wanted to return to the starting point, what the Soviet delegation began with, that is, the fact that oral petitions should be reflected in the report of the Trusteeship Council to the Security Council as was done in the past year. That is to say, experience has been acquired by the Trusteeship Council in this matter, and there is an established procedure for this.

The PRESIDENT: It seems to me that there is no immediate need to reach a quick decision on this procedural matter that has been raised by the representative of the Soviet Union. Therefore I should like to propose that we discuss this matter further both informally and formally in this Council and that we await the figures for which the representative of France has called so that we can take that aspect into account in reaching a decision on the matter. If there is agreement on what I have just proposed, I should like so to proceed.

Mr. POUDADE (France) (interpretation from French): My concern is, first of all, that we know where we may read the oral petitions in toto: in our verbatim records. We adopted a procedure which after years of experience has proved to be a poor one. I think we could say that to err is human but to persist in the error is foolish. What I mean is that the idea of including a summary of the petitions in the report of the Trusteeship Council to the Security Council took almost a year of negotiations among four delegations. How can four delegations agree on what is and what is not important as far as the petitions are concerned? Therefore, in my opinion, the only reference documents which should be used are the verbatim records, where we have the petitions reproduced in toto. As in past years, we could well include in the reports to the Security Council a cross-reference indicating that the petition of each person referred to is reproduced in the verbatim record, giving the document number and date of that record. That is one of my concerns. For a whole year, Mr. President, you would be having discussions with the various members of the Secretariat to determine what is important and what is not important in a given petition. I think you have made a wise decision to postpone this discussion until we have informal consultations, and I fully endorse it.

The PRESIDENT: The hour is getting late, and I should like to adjourn for lunch if the Council will allow me to do so. May I take it, therefore, that we are agreed that this procedural matter should be looked at further, that we should not attempt to take a decision quickly, that we should in the first instance obtain the figures, which will be helpful, I think, in reaching a decision, and that, having obtained those figures, I should have informal discussions with members of the Council and subsequently formal discussions in the Council on this matter?

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): I think there is a slight inaccuracy here in the formulation. It is not only a question of our taking a decision on a procedural question. In this case the statement of the representative of France obligates us to make a review of the existing procedure and the format of the report to the Security Council. This is a little more serious than it might seem at first sight. I should like to emphasize in all seriousness that, if the question is raised now about reviewing the format of the report, the Soviet delegation will find itself compelled to make a number of proposals, which it has made repeatedly, on the format of the report of the Trusteeship Council to the Security Council, and we shall insist on consideration of those other proposals as well.

The PRESIDENT: Am I to take it, therefore, that my proposal is accepted that we should leave this matter on one side, await the figures and then open informal discussions on this matter? If I hear no objection, it will be so decided.

It was so decided.

The meeting rose at 1.10 p.m.