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Fifty-second Session

VERBATIM RECORD OF THE FIFTEEN HUNDRED AND EIGHTY-THIRD MEETING

Held at Headquarters, New York,
on Wednesday, 15 May 1985, at 10.30 a.m.

President: Mr. MAXEY (United Kingdom)

Examination of the annual report of the Administering Authority for the year ended 30 September 1984: Trust Territory of the Pacific Islands (continued)

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

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The meeting was called to order at 10.50 a.m.

EXAMINATION OF THE ANNUAL REPORT OF THE ADMINISTERING AUTHORITY FOR THE YEAR ENDED 30 SEPTEMBER 1984: TRUST TERRITORY OF THE PACIFIC ISLANDS (T/1871) (continued)

EXAMINATION OF PETITIONS LISTED IN THE ANNEX TO THE AGENDA (see T/1872/Add.1) (continued)

The PRESIDENT: As agreed at our meeting on Monday, we shall this morning begin hearing petitioners whose requests for a hearing are contained in documents T/PET.10/331 to 343. I understand that Mr. Stuart Beck (T/PET.10/333) has informed the Secretariat that he has withdrawn his request to be heard. I suggest that the Council hear the following petitioners today: Magistrate Tomaki Juda, Senator Henchi Balos and Messrs. Jonathan Weisgall, Nathan Note, Johnny Johnson and Ralph Waltz on behalf of the people of Bikini; Magistrate Hertes John, Senator Ishmael John, Iroij John Abraham and Messrs. Renton Peter, Johnson Ernest, David Anderson and Mack Kaminaga on behalf of the people of Enewetak; Senator Ataji Balos and Mr. Christopher Loeak of Kwajalein Atoll; Ms. Susan Quass, Ms. Mia Adjali and Messrs. Michael Hahm and Robert McClean of the United Methodist Office for the United Nations; Mr. Glenn Alcalay of the National Committee for Radiation Victims; Mr. Leslie Tewid of Palau and Mr. Douglas Faulkner.

I invite the petitioners who are to be heard today to take their places at the petitioners' table.

At the invitation of the President, Magistrate Tomaki Juda, Senator Henchi Balos, Mr. Jonathan Weisgall, Mr. Nathan Note, Mr. Johnny Johnson, Mr. Ralph Waltz, Magistrate Hertes John, Senator Ishmael John, Iroij John Abraham, Mr. Renton Peter, Mr. Johnson Ernest, Mr. David Anderson, Mr. Mack Kaminaga, Senator Ataji Balos, Mr. Christopher Loeak, Ms. Susan Quass, Ms. Mia Adjali, Mr. Michael Hahm, Mr. Robert McClean, Mr. Glenn Alcalay, Mr. Leslie Tewid and Mr. Douglas Faulkner took places at the petitioners' table.

The PRESIDENT: In cases where petitioners have prepared their statements in advance, the Secretariat will circulate copies of those statements to delegations as soon as possible.

I propose that questions should be asked of petitioners at the end of a series of statements. We shall see how it goes, but I intend in the first instance to give members of the Council the opportunity to ask questions of the first few petitioners at the end of this morning's meeting. But that will not, of course, be the only opportunity to do so.

I call first on Mr. Johnathan Weisgall.

Mr. WEISGALL: I thank the Council for providing the people of Bikini with the opportunity to address it today.

For the last six years the Bikinians have argued to this body that the United States had violated the Trusteeship Agreement by failing to clean up Bikini Atoll. Indeed, the Bikini people last year asked this Council, the Special Committee of 24 and the Fourth Committee to request an advisory opinion from the International Court of Justice as to whether the Administering Authority's failure to perform a radiological clean-up of Bikini Atoll violated article 6 of the Trusteeship Agreement, which obligates the United States to protect the Bikinians "against the loss of their lands and resources". In addition, the Bikinians filed a lawsuit on 1 May of last year in the Federal court in Honolulu seeking an injunction to require the executive branch of the United States Government to clean up Bikini.

While this lawsuit was pending, two significant events occurred late in 1984 concerning the clean-up of Bikini. The first was the release of a report by the Bikini Atoll Rehabilitation Committee, an independent, blue-ribbon group of scientists established by the United States Congress in 1982 to study the feasibility and cost of the clean-up of Bikini. According to the scientists' report, Bikini Island, the largest in the atoll, can be made to meet Federal radiation safety standards by scraping off the top foot of the island's soil, at a cost of approximately $40 million. The contaminated soil could be disposed of either by extending the seaward side of the island or by dumping the soil into a crater in the lagoon formed by the 1954 Bravo test. Either process would require between two and four years to implement, although complete revegetation of the island might take up to 10 years. The scientific report also stated that Eneu Island, the second largest in the atoll, does not require decontamination because its radiation levels are nearly eight times lower than Bikini's.

The second major event, which occurred late in 1984, was the decision by the United States Congress to appropriate $1.9 million for the scientific committee to continue its work by conducting pilot studies at Bikini to test its conclusions and to determine whether the loss of topsoil and the compacting caused by the movement of heavy equipment would impair the productivity of Bikini's soil. At the same time, recognizing that a clean-up is feasible, Congress also authorized the scientific committee to begin work on a master plan for resettlement of Bikini and Eneu and a proposed draft environmental impact statement on the clean-up.

Against this background, United States and Bikini representatives conducted lengthy negotiations, which, on 13 March of this year, resulted in an amicable

(Mr. Weisgall)

settlement of the clean-up lawsuit in Honolulu. The United States Government stated in the settlement agreement that:

> "The United States views with favour the rehabilitation and resettlement of Bikini Atoll by the people of Bikini and pledges to the people of Bikini to use its best efforts to facilitate the steps necesssary to achieve these objectives." (T/COM.10/L.355, p. 2)

Copies of the five-page settlement agreement have been translated and circulated to members of the Council as document T/COM.10/L.355.

Under the settlement agreement, the United States has agreed to provide funds under article VI of the Section 177 Agreement to the Compact of Free Association to assist the Bikinians in resettling Bikini Atoll. Furthermore:

> "The United States intends that these funds be used for resettlement activities which, to the maximum extent practicable, contribute to the rehabilitation of Bikini Atoll, and especially Bikini Island." (p. 3)

Under the agreement, the availability of these funds depends upon the following conditions: First, submission of a final report to Congress by the Bikini Atoll Rehabilitation Committee; secondly, acceptance by the Bikinians of this final report; and, thirdly, the development of a plan by the United States Government, in consultation with the people of Bikini and based to the maximum extent practicable on the final report, for the use of these funds.

In addition, the Compact must be in effect, since it constitutes the funding source, and Congress must appropriate the funds requested by the executive branch.

As members know, the Bikinians have sought a clean-up of their atoll since their second removal in 1978, and this historic agreement represented a breakthrough in United States-Bikinian relations. Mayor Tomaki Juda, speaking for the Bikini community, stated:

> "We look forward to working together with the United States to restore Bikini so that we can finally return home."

Similarly, Mr. James Berg of Ambassador Zeder's Office for Micronesian Status Negotiations stated:

> "This marks a real shift and an important one in the position of the Bikinians and also of us. It marks the beginning of a co-operative attitude where previously there had been litigation and a very negative atmosphere."

The United States negotiators, including representatives from Ambassador Zeder's office as well as from the Departments of the Interior, Energy and Justice, deserve significant credit for achieving this settlement.

(Mr. Weisgall)

Although it is difficult today to predict exactly how long it will take to clean up Bikini Atoll or the precise cost, two facts are nevertheless clear. First, Eneu Island is safe now. Secondly, the clean-up of the atoll will have to proceed in stages, and the logical place for a base camp is Eneu Island, given its size, radiological safety and 5,000-feet airstrip.

For these reasons, the Bikinians have just recently asked the United States Congress to add $14.4 million to the fiscal year 1986 budget for the first stage of the clean-up of Bikini Atoll by establishing a base camp on Eneu Island and providing logistical support for the clean-up. The people of Bikini have stated repeatedly, and they continue to maintain, that they want all of Bikini Atoll cleaned up, but they recognize that the logical first step in this process is to set up a base camp on Eneu Island.

The people of Bikini wish to bring to the Council's attention two additional issues of concern to them. The first, which has received significant attention in this Chamber, is the nuclear-claims provision of the Compact. Section 177 of the Compact states that the United States,

> "... accepts the responsibility for compensation owing to the citizens of the Marshall Islands ... for loss or damage to property and person ... resulting from the nuclear-testing program ..."

The Section 177 subsidiary Agreement establishes a perpetual $150 million trust fund that will pay out $270 million over the first 15 years: $183.75 million to the peoples of the four atolls of Bikini, Enewetak, Rongelap and Utirik, who were directly affected by the testing programme; $33 million to the Government of the Marshall Islands to obtain United States services for health care and radiation surveillance and monitoring for the people of these four atolls; and $53.25 million to a claims tribunal that will have jurisdiction to make awards in connection with nuclear-related claims to Marshallese citizens.

At the same time, the Agreement states that it "constitutes the full settlement of all claims, past, present and future" of Marshallese citizens against the United States arising out of the weapons-testing programme. The validity of the mechanism by which the United States seeks to dismiss these claims, the so-called espousal clause, will ultimately be tested in United States courts, where Marshallese citizens have nuclear claims of over $5 billion pending against the United States.

(Mr. Weisgall)

The Bikinians' opposition to this Agreement derives from the fact that it was negotiated on a Government-to-Government basis between the Government of the United States and the Government of the Marshall Islands. The Agreement purports to terminate the Bikinians' $450 million lawsuit against the United States that is pending in the United States court; but the Bikini people did not sign, and were not asked to sign, the Section 177 Agreement.

The second matter to which I wish to draw the Council's attention is the question of Ejit Island. In 1978, with the permission of the then High Commissioner Adrian Winkel and the then District Administrator Oscar DeBrum, some of the 139 people who were moved off Bikini were resettled on Ejit Island in Majuro Atoll. The High Commissioner approved the expenditure of Federal funds to construct homes for eight families on Ejit Island, which is today the home of nearly 200 Bikinians.

The reason the Bikinians were resettled on Ejit Island is that the island has always been viewed as public land. Ejit Island was acquired in 1902 by a German company, the Jaluit Gessellschaft. Title passed at the end of the First World War to the Government of Japan under article 257 of the Treaty of Versailles, and the island continued to be viewed as public or Government land under the United States administration, as evidenced by the fact that the United States relocated the inhabitants of Rongelap there between 1954 and 1957 following the tragic Bravo shot at Bikini.

It is crystal clear that the Marshall Islands Government, at least until recently, viewed Ejit Island as public land. For example, a March 1981 legal memorandum to the Trust Territory Attorney General states:

> "The Government of the Marshall Islands, through its Chief Secretary (Oscar DeBrum), has expressed its opinion that Ejit Island is 'public land' ..."

More recently, five separate drafts of the Section 177 Agreement to the Compact, including one actually signed on 30 May, 1982 by President Kabua and Ambassador Zeder, referenced the fact that Ejit Island is public land.

Despite this history, the Marshall Islands legislature, the Nitijela, recently passed resolution No. 11 requesting the Marshallese Government's cabinet "to arrange for transfer of land title from the Government to the persons who are the owners" of Ejit Island. At a Congressional hearing on the Compact in Washington on 23 April, Marshall Islands Government witnesses, led by Chief Secretary DeBrum, indicated that the cabinet probably would transfer title to the purported landowners.

(Mr. Weisgall)

In 1979, High Commissioner Winkel issued quit-claim deeds and releases to the people of Bikini concerning all rights, title and interest held by the Trust Territory in Bikini, Kili and four islets at Jaluit, all of which had been used by the Bikini people. That Ejit was not quit-claimed was undoubtedly an oversight. A quit-claim, of course, would not preclude possible litigation with parties claiming to own Ejit, but it would help put the rest of the spectre of the Bikini people once again packing their belongings and looking for a new place to live.

The question of the ownership of Ejit Island raises a basic issue of human rights. The United States determined to move these people to Ejit Island in 1978, and it should take whatever measures it can, before and after the Compact comes into effect, to ensure that they have rights over that land.

The problem, however, is that neither the United States nor the Trust Territory Government apparently opposes the transfer of title to Ejit Island to the Bikinians; it is the Marshalls Islands Government that intends to turn the land over to the purported landowners, who have remained quiet for quite a few decades. The people of Bikini therefore ask this Council to adopt the same language as was adopted unanimously yesterday morning by the United States House Foreign Affairs Committee in its consideration of the Compact.

That Committee stated that it

"urges the Government of the Marshall Islands to defer action on the resolution calling for the transfer of the title of Ejit to private landowners. The Committee hopes that the Government of the Marshall Islands will consider making legal arrangements to transfer title of Ejit Island to the Bikinians residing there."

The United States is preparing to terminate the trusteeship as we approach the fortieth anniversary of the first military use of nuclear weapons and the end of the Second World War. For the United States, the war began and ended in Micronesia; Japan's massive raid on Pearl Harbour, staged from Micronesia, had brought America into the war, and two American planes that took off from Tinian Island in Micronesia on 6 August and 9 August 1945 brought the war to a close. The nuclear age that started in Hiroshima continued in Micronesia, first at Bikini, then at Enewetak, and today at Kwajalein.

(Mr. Weisgall)

The Compact, if approved, will have the force and effect of both United States and international law. It is a legal document, but it cannot replace power. As George Kennan once wrote,

"The realities of power will soon seep into any legalistic structure which we erect to govern international life."

This is true of the Compact as well. The relationship between the United States and the freely associated States will depend more on the realities of power than on the legalistic structure in which that relationship is clothed.

The United States commitment under the Compact to clean up Bikini is related in part to those realities of power, but it should also be viewed as the recognition by a great country of a moral obligation and as the fulfilment of a promise, on which the United States is to be congratulated all the more.

Two years ago, Bikini Senator Henchi Balos, who is with me today, spoke before this Council and said

"Bikini is our only home.... We want our dignity back, and our dignity is our land; our land is our life". (T/PV.1546, p. 46)

The Bikini people now look forward to a return to their homeland, a return which, it is hoped, will help them to begin to rebuild their identity and their dignity.

The PRESIDENT: I now call on Senator Ishmael John.

Mr. JOHN: I appreciate this opportunity to speak on behalf of my people, the people of Enewetak. We shall be telling the Council of our problems in due course, but there are two problems I wish to bring to the attention of the Council now: the first is that the people of Engebi have not yet been resettled; the second, looking to the future, is that if the Compact is adopted we want United States support for Enewetak to be continued. Details will be provided by Mr. Anderson.

The PRESIDENT: I call on Mr. David R. Anderson.

Mr. ANDERSON: I wish first to introduce formally the other members of the Enewetak delegation who are here. They are: Mayor Hertes John; John Abraham, Iroij of the dri-Engebi; Johnson Ernest, Clerk of the Council in Enewetak; Renton Peter, the son of the Iroij of the dri-Enewetak; and Mack Kaminaga, the group's translator.

On this occasion, perhaps the last time the people of Enewetak will appear before this Council as subjects of the United Nations Trust Territory of the Pacific Islands, we put before the Council questions that may determine whether, and for how long, that people can remain on Enewetak.

(Mr. Anderson)

As members know, the Administering Authority has asked the United States Congress to change the status of the Territory by 1 October. When that change becomes effective and the Marshall Islands become quasi-independent States, Enewetak will lose the services provided to it by the United States under the Trusteeship Agreement. As we shall show, however, the day has not yet arrived when Enewetak can do for itself what the United States now does for it. Unless something is done to continue the Enewetak support programme, independence will come too soon for the people of Enewetak. For that reason, we urgently petition the Counil to inform the Administering Authority that it will not authorize the termination of the trusteeship until adequate arrangements have been made for the transfer and ongoing administration of the programmes on which the people of Enewetak are still dependent and on which it appears they will continue to be dependent for at least another three to five years.

Without the permission of this Council or the permission of the people of Enewetak, the United States took Enewetak Atoll from its people in 1947 so that it could be used for the American nuclear bomb testing programme. In the process, the people of Enewetak were deported to Ujelang for 33 years. Passing, for now, an account of the intervening hardships they suffered during the deportation, let us turn to the situation they found when they returned to Enewetak in 1980, for what they found in 1980 and what they find now provides the framework for assessing whether the United States has made adequate arrangements for the termination of the Trust.

In 1947, at the time of the deportation, the people of Enewetak lived in what was essentially a subsistence economy. They fended for themselves, depending on the coconuts and other food grown on their coral atoll and the fish and other food from the sea to sustain them. Each day they gathered the food necessary for that day's meals. In that way they lived a simple but satsifactory life, much in the manner of their ancestors over the preceding 15 centuries. When the United States deported them to make way for the testing programme, that changed. Uprooting the people not only from their homeland but also from their traditional way of life, the United States assumed the responsibility for their upkeep and care. The United States failed to discharge that duty adequately when they lived on Ujelang; now they face the prospect of permanent neglect.

As part of the clean-up which led to the resettlement of Enewetak in 1980, the United States necessarily removed the radioactive debris left from the testing programme, scraped off the radioactive soil from all the residential and

(Mr. Anderson)

agricultural islands that make up the atoll, and in the process uprooted all the plants and trees because they had been contaminated by the radiocative fallout.

Thus, when the people returned they found nice houses, but nothing to eat and little to do. The economy they returned to was a welfare economy, not the subsistence economy that was taken from them in 1947. The efforts of the United States to restore the subsistence economy, although continuing, are far from complete. The groves of coconut palms that were planted to provide a source of food and a cash crop are still three or more years from the production required for either of those purposes. The plantings of pandanas and breadfruit, which have struggled against the tradewinds and the problems created by the sterile soil left after the clean-up, are not established sufficiently to provide an adequate source of food. As a result, the people of Enewetak have been continuously dependent on imported foods provided by the United States since the resettlement five years ago.

In addition to the food programme and the crop replacement programme, the United States provides health care and a small vessel to permit the people to travel back and forth between Enewetak and Ujelang, where about 100 Enewetak people now live; it administers a small trust which provides for the only current source of income, and it also provides some incidental community support. Each of these programmes is essential for the well-being of these people, and each of these programmes is about to be discontinued. Our question to this Council is: what happens to the people then?

This much they can answer for themselves: the struggling infant Government of the Republic of the Marshall Islands, which must step into the large shoes of the United States when the Compact of Free Association becomes effective, is not in a position to assume financial responsibility for these programmes. Indeed, the Republic has already informed the United States Congress that it will not do so. That means that unless the Council insists that the United States continue its support for at least another three to five years, the people of Enewetak must fend for themselves.

Here again the Administering Authority has failed us. The plain facts are that the United States has not built the necessary community facilities or otherwise prepared Enewetak to take over the role of the United States. There is no post office on Enewetak, no bank, no store of any consequence, no telephone, no regular or reliable radio service, no doctor, no lawyer, no accountant, no captain or fully trained navigator for the ship, no high school, no source of electrical power generation, no employment other than that incidental to the replacement crop

(Mr. Anderson)

programme, no means for coco production when the coconut palms become productive, nor any other source of income to make the people self-sufficient.

In other words, for all its might and main, all the United States has done since the resettlement is to provide the people's daily bread and to plant crops which, when bearing, may enable the people to regain a life-style that bears a resemblance to their former ways.

But that day is still beyond their reach - at least three years off, perhaps five. Yet what the Administering Authority intends to do when the Compact of Free Association becomes effective later this year is to withdraw its support and leave nothing to replace it, at least in the short-term future.

The view of the United States is that the money provided in the Section 177 Agreement of the Compact of Free Association may be used by the people of Enewetak to hire their own contractors, to buy their own food and thus to take care of themselves. Reassuring as that may sound, it is neither an equitable nor a practical solution. First and foremost, these funds are specifically provided to pay for the damage done to the atoll by the United States during the testing programme and not to replace United States aid made necessary by the clean-up programme.

Secondly, the cause of the current set of problems facing the people of Enewetak is more the result of the maladroit administration of the resettlement programme and the transition arrangements than of the testing programme. The fact that some money will be coming to Enewetak as compensation for the damage done by nuclear testing does not in any way justify the United States decision to leave a series of half-solved problems behind on Enewetak when the trusteeship is terminated.

We have one other matter to bring to the Council's attention. Ground zero for most of the tests was Engebi Island in the northern part of the atoll. Unlike Enewetak Island in the southern part of the atoll, Engebi has not been resettled. It is the United States view that it will be some 20 years or more before it is safe for people to live there on a year-round basis. Realizing that the change of status is likely to occur before resettlement, the Interior Department has twice formally acknowledged its obligation to provide a trust fund for the resettlement of Engebi. To date, however, owing to a conflict of views within the Administration, the request has not been approved by the agency known as the Office of Management and Budget and the trust fund has not yet been established. This item of unfinished business is one on which the Council should require the United States to make good its omission before it permits the Trust to be terminated.

(Mr. Anderson)

In our view, it would violate article 6, paragraph 2 of the Trusteeship Agreement for the United States, having taken Engebi for the tests, not to provide the means for the dri-Engebi to return to their island once the trusteeship is terminated and it is safe for them to do so. Accordingly, we ask that the Council compel the United States to continue support programmes and to fund the Engebi trust as conditions precedent to the termination of the trusteeship.

At this time, we would be delighted to answer any questions about the administration of the trusteeship on Enewetak and the problems and hardships that have been created for the people by that administration.

Mr. FELDMAN (United States of America): I should like to reply to some of the charges that have just been made. I would begin by noting that over the years the United States provided a full and complete report of our activities on Enewetak. I do not have the document citations here - I can provide them later - but the reports have been given.

I should like to say that both the clean-up and the rehabilitation and resettlement programmes for Enewetak Atoll have been completed on schedule. The atoll was officially turned over to the Trust Territory Government and to the people of Enewetak on 8 April 1980. Three new communities were built in the southern portion of the atoll, consisting of the islands of Enewetak, Medren and Japtan. These islands are essentially free of radiological contamination.

With the approval of the Enewetak land-owners, arrangements were made to allow the Engebi people, whose land holdings are in the north, to settle on the southern islands until their own islands, particularly Engebi, could be resettled. Homes and community facilities were established in Enewetak and Medren and additional housing on Japtan. The new housing is concrete construction. It is fire resistant, waterproof and impervious to termites, fungus and dry rot. It is specifically designed to be resistant to typhoons. In fact, these housing units have withstood three serious storms since 1978 without substantial damage.

Despite the charge that nothing has been done to provide for the economy, more than 22,000 coconut trees have been planted on these islands, and there have been an additional 12,000 test plantings on seven of the northern uninhabited islands.

We have recently confirmed that the northern island test coconut plantings contain caesium, a radioactive element, in varying degrees. It should be noted, however, that these northern island plantings were tests; they were not intended to provide food. The 22,000 coconut trees planted in the south were. The United States is now funding research in several areas aimed either at eliminating the caesium in the north or providing caesium-free coconut oil.

(Mr. Feldman, United States)

Although subsistance crops are now starting to produce and, we hope, will take over the function, we continue to provide subsidized feeding and support and will do so for another two to three years, until the new communities become self-sufficient.

This year's annual report contains, on page 127, a summary of the whole Enewetak resettlement programme. I should also like to mention that the people of Enewetak have now resided on Ujelang for 33 years. Obviously, during that time many people, particularly those who were born there, have developed an affection for Ujelang. Ujelang Atoll is 125 miles south-west of Enewetak. It is somewhat smaller in size. However, many improvements have been made over the years.

Ujelang enjoys bountiful natural foods, including coconut, breadfruit, bananas and other tropical fruits and plants. A specially designed and constructed motor-sailer, the Wetak II, was presented to the people of Enewetak and now provides transportation and communication between the two living centres of the Enewetak people.

With regard to the statement that the United States intends to terminate the trusteeship this year and that the people of Enewetak will be left high and dry, I should like to say that no such decision has been made. I repeat: we have not made a decision to terminate the Trusteeship this year.

However, I do wish to say what Mr. Anderson did not: that when the Compact of Free Association does go into effect, a quarterly disbursement of $812,500 will be made to the Enewetak people. I repeat: a quarterly disbursement of $812,500 will be made under the Compact to the Enewetak people.

Now, how many people are we talking about? There were originally 140 people resettled. There are now a total of 614; that is, the population has increased almost six times over the years. These 614 people will receive $812,500 times four payments a year times 15 years. I think that the allegation that the Enewetak people will be left high and dry once the Compact goes into effect is laughable.

The PRESIDENT: I now call on Mr. Douglas Faulkner.

Mr. FAULKNER: I should like to depart from my petition for just a moment to comment on the Enewetak issue.

I read somewhere in the verbatim record of last year's session that the people of Enewetak would like to be dealt with as individuals, as people coming from Enewetak, and not just as part of the Marshallese, because certainly their condition is a special condition. What happened to their atoll was a special happening that did not exist all over the Marshalls. I do not think they should be

(Mr. Faulkner)

swept up in a compact made by the whole archipelago and possibly suffer damage in other ways that should be dealt with directly with them.

I should like to apologize for the rough state of my petition. I was going to give an extemporaneous petition, and last night, at the last minute, I decided to write it down so that it would not exceed half an hour in length.

The well-known American photographer, writer, film-maker and composer, Gordon Parks, in his formative years realized that the path his life would take was primarily a choice of weapons. As a black man in our white society, he knew the meaning of bitterness, anger and rejection. He knew he could hold a gun in his hand, but he chose instead to hold a camera and a pen to document his sorrow and his joy.

For me, Gordon Parks embodies the truth that what you hold in your hand, you hold in your heart. Although I hold no weapon in my hand, I know there is much repressed anger in my heart due to many injustices towards the Micronesians and other weaker peoples on this planet. And yet I love my country. As a world traveller, it would be unrealistic of me to imagine that the United States invented injustice. America is a land where every nationality is represented. Consequently, it does not make me feel good to have to criticize my Government. Yet I can do no other when I see wrongs committed, human rights trampelled upon. Yet I have heard it said many times that life is not fair.

There is much I love about my country in spite of its flaws. I certainly would not trade it for another, for my roots are here. Yet I will not feel I have fulfilled my responsibility to the Micronesians and to Palau until such time as the final vote is in. Contrary to some expectations, I do not believe that this year will mark the end of the Trust Territory.

My petition has two parts, the first commenting on past statements and on statements made a few days ago before this Council. The second part of my petition ends with Shakespeare, who 400 years ago perceived the cause and the cost of much of our grief and, I might add, joy.

During the last two days of the meetings of the fiftieth session of the Trusteeship Council, the representative of France has for economic reasons proposed that the Council delete summaries of petitions from the annual report to the Security Council; the report was to be shortened overall, but the oral petitioners would disappear from view. The Soviet delegation objected, but was outvoted by the United States, the United Kingdom and France. This same triumvirate outvoted the Soviets on many other matters put to the vote during that session.

(Mr. Faulkner)

At this time I should like to mention that the Soviet delegation has appeared to me to be logical and fair in its efforts to protect the Micronesians from undue pressures exerted against them by the United States. I have pointed out these pressures in my three previous petitions. When the United States and its two allies voted to delete the summaries of the petitioners from the annual report, they buried the outcry of men and women who had travelled nearly half way around the world to be heard. To my mind that is a not very honourable act of discrimination and censorship against Micronesians. I say this in light of all I know. I am here because I have my own thoughts to contribute to this session that were not expressed by Mr. Zeder, President Reagan's personal representative.

I am certain there are many Micronesians who would love to come before this Council had they the money to travel to New York, Micronesians who would have differing views from their official representatives. Yet those who do come must not be treated on an unequal footing. It is not fair to have only a company representative and not the voice of the workers in the annual report.

Another matter that concerns me is the continued efforts of the United States to push the issue of the military base on the people of Palau. If as many Palauans wanted a possible military base as wanted an anti-nuclear clause in their Constitution, the 75 per cent vote needed to alter the Constitution would have taken effect long before now. The issue of a military base, which is holding up passage of the Compact of Free Association is clear: to be or not to be is certainly the question. Yet if the military base is not to be, why must the United States push and push on a tiny island nation while it is still in the delicate condition of its infancy? This is not what the United Nations Trusteeship system is all about. The United States should think about its true role as trustee, distinct from its current role.

On the opening day of this session, Ambassador Feldman of the United States said:

> "There have been a number of wild, far-fetched allegations on the part of some more interested in propaganda than in truth about the United States military presence in Micronesia. Let me lay before the Council the full details of that presence.

(Mr. Faulkner)

"Let me begin by noting that article 5 of the Trusteeship Agreement unambiguously gives the United States the right to establish military bases in the Territory. Nevertheless, there actually is a grand total of 13 United States military personnel in Palau. They belong to a civil action team. Their weapons are bulldozers, hoes, shovels and trucks. I have a list of their projects under way or contemplated. They include expansion of a senior citizens' centre, reroofing the Palau High School, the construction of an elementary school in Airai, and Airai State Park. This is the kind of work these teams do." (T/PV.1581, p. 21)

I do not think I would ever object to the expansion of a senior citizens' centre, the reroofing of the Palau High School, or the construction of an elementary school. In fact I would, and do, applaud such endeavours. What I do not applaud is the possible use of 30,000 acres of Babeldaob land and mangrove swamps for marine guerrilla warfare manoeuvres. Nor do I applaud the possible lengthy piers constructed across the reef, nor the possible filling of 40 acres of lagoon in Malakal Harbour, all plans set forth in the contingency military requirements in the Compact handed to the people of Belau for their vote. The military plans do not call for elementary schools; rather, they call for dredging and bulldozing on a far greater scale that will be detrimental to Belau's lands and reefs.

My petition presented at the fiftieth session of this Council two years ago sets forth in detail my concerns and the concerns of my scientific colleagues. I shall therefore let my environmental concerns rest for now.

As an American citizen with a loyalty to American ideals, I agreed wholeheartedly with Ambassador Feldman when he said, on Monday:

"... self-determination should not be something that takes place only once, when the voters go to the polls to ratify a form of government. It is the product of democratic self-rule, which is a process, a generally undramatic process, which involves day-to-day satisfaction of peoples' needs, popular participation in institutions and respect for human rights and fundamental freedoms." (T/PV.1581, p. 8)

Rather than continue with any more fault-finding - which I could easily do until lunchtime - I beg the Council's patience while I take a different tack to my chosen conclusion. It is not a tack to the right or left, I hope, for essentially I am an apolitical person. I do not understand the word "political"; the word "concern" has far greater meaning for me.

(Mr. Faulkner)

At the end of Monday's meetings, I had occasion to chat with Mr. Berezovsky of the Soviet Union. I related to him a portion of my petition and told him that, as much as I liked his defence of the peoples of Micronesia, even the Soviet Union had a few skeletons in its closet. I said that if his country and the United States truly desired what was best for Micronesians they would endeavour to become friends between themselves and in that way no military base would ever be needed on Belau; then no reefs need be dredged and no trees need be bulldozed. Mr. Berezovsky brightened and with a twinkle in his eye said: "I agree with you on everything but the skeletons."

So, like a Jewish match-maker, here I am, having secured half the marriage. William Shakespeare had the same problem when he wrote Romeo and Juliet. The parents of the two young lovers were at odds, just like the Soviet Union and the United States. One family, one humanity, but at odds. Their feud, in time, would kill their children in their youth.

It seemed such a senseless war. Forgive me. I have always been one to cross boundaries, even though I know the grass is no greener.

In their youth, Romeo and Juliet met, just in time, in a fleeting star-crossed "yes". Romeo climbed Juliet's garden wall in hopes of seeing her face again, only to discover that she was thinking out loud about him:

"Juliet: O Romeo, Romeo! wherefore art thou Romeo?
Deny thy father and refuse thy name;
Or, if thou wilt not, be but sworn my love,
And I'll no longer be a Capulet.

"Romeo [aside]: Shall I hear more, or shall I speak at this?

"Juliet: Tis but thy name that is my enemy.
Thou art thyself, though not a Montague.
What's Montague? It is nor hand, nor foot,
Nor arm, nor face, nor any other part
Belonging to a man. O, be some other name!
What's in a name? That which we call a rose
By any other name would smell as sweet.
So Romeo would, were he not Romeo called,
Retain that dear perfection which he owes
Without that title. Romeo, doff thy name;
And for thy name, which is no part of thee,
Take all myself.

(Mr. Faulkner)

"Romeo: I take thee at thy word.
Call me but love, and I'll be new baptized;
Henceforth I never will be Romeo.

"Juliet: What man art thou that, thus bescreened in night,
So stumblest on my counsel?

"Romeo: By a name
I know not how to tell thee who I am.
My name, dear saint, is hateful to myself,
Because it is an enemy to thee."

Mr. FELDMAN (United States of America): I think all of us who are familiar with the workings of the Trusteeship Council - and although this is my first appearance here I have, of course, read the reports of previous years - must be quite convinced of the genuine feeling of affection and concern which Mr. Faulker has demonstrated over the years. Therefore, I am all the happier to assure him that the United States contemplates no military base in Palau.

The Commander-in-Chief of United States Forces in the Pacific Theatre, Admiral Crowe, has said in numerous press conferences - and I shall repeat here - the United States contemplates no air base, naval base, submarine base, no military base of any kind in Palau.

The United States has asked that it be allowed, from time to time, to use certain public areas in Palau for brief training exercises. This is purely on a contingency basis in fact, because there are no plans at the moment even to use them for exercises. We have simply asked in the Compact whether Palau would be willing to entertain such a request. And I want to stress that, were the request granted, it would be for temporary, non-exclusive use of public lands. No military base is contemplated in Palau.

At the beginning of his statement, Mr. Faulkner - again, from what we know is the best of motives - said that he thought it unfortunate that the Enewetak people were being treated as part of the Republic of the Marshall Islands. I am sure that later the representatives of the Marshall Islands will wish to comment on that. For my part, I simply wish to point out that the people of Enewetak, in the United Nations observed plebiscite, voted overwhelmingly for the Compact of Free Association.

The PRESIDENT: I call now on Ms. Susan Quass.

Ms. QUASS: I would like to preface my remarks with a comment on the statement by the representative of the United States. I am very glad to hear him say that the United States request for military land use in the Republic of Belau refers to only temporary, non-exclusive military use. This would be good news, I think, to the people of Belau because in September 1984 they voted on a version of the Compact which stated that Belau "shall make available any designated area" within 60 days and this could be any portion of Belauan land for whatever military use it was desired by the United States. This was set out in subsidiary agreements to the Compact voted on by the Belauans in 1984. So I am very glad to hear Mr. Feldman's assurances that it is not now the United States intention to claim these broad privileges of the United States.

We thank this Council for allowing us to petition it on matters relating to the Trusteeship Agreement for the Trust Territory of the Pacific Islands and to the situation of peoples in that Trust Territory.

In 1944 our Church resolved to establish "an international office of education and publicity for peace". This was the beginning mandate of our programme and our support for the birth of the United Nations and the Trusteeship Council as one of the best hopes for world justice that can bring peace. Through the years we have appreciated the work of this Council and have ourselves supported the self-determination of all peoples.

The United Methodist Church has 10 million members in 24 countries in North America, Africa, Asia and Europe. This petition is based upon policy statements adopted by our legislative assembly, the General Conference. Our comments also reflect the relationship of the United Methodist Church with peoples in all Pacific islands through co-operative missions and through the Pacific Conference of Churches. We are deeply concerned about and involved in missions for justice for all colonized peoples.

My name is Susan Quass and I am the Pacific Resources Co-ordinator for the United Methodist Office for the United Nations. I have come to this position following 14 months as a United Methodist missionary in Micronesia. I have travelled in Micronesia and the South Pacific and lived and worked for one year with a grassroots movement in Belau called Kltal-Reng, which is pro-Constitution, pro-Belauan. We note that Mr. Roman Bedor is scheduled to address the Council later this week and we offer our remarks in solidarity with his statement and the statement of the Micronesia Coalition, which will also address the Council later.

(Ms. Quass)

We regret that more Micronesian private citizens cannot be here to tell the Council their story but members know that it is a great hardship for them to come. We hope that the Council listens not only to what the Micronesian representatives here say, but to what they do not say as the Council exercises its responsibility to protect the rights of those under its trust.

We will begin by addressing the implications of the Compact of Free Association within the context of United Nations resolutions applicable to the Trust Territory. There are four key points of concern to the Council that are integral to all three Compacts the United States is seeking with Micronesian States.

First, the Administering Authority has admitted that the intent of the Compact of Free Association is not sovereignty for Micronesians. United States Administration witnesses appearing before a United States Congressional committee testified in 1984 that freely associated States would probably not be eligible for membership in the United Nations as they would fail to pass United Nations standards for independent sovereign States.

Secondly, Micronesians consider the Compact a treaty and deal with it as such in their ratification processes, but the United States is dealing with the Compact as legislation to be passed by both Houses of the Congress as public law. In recent weeks a United States Congressional sub-committee has passed two amendments which would provide the United States with an annual review of the Compact and the power to withhold fulfilment of its obligations under the Compact in order to discipline Micronesian States if the United States feels its security interests are threatened. The implications of these two different understandings of the Compact and potential amendments by the United States Congress not negotiated with the Micronesians have yet to be explored and elucidated.

Thirdly, definitive provisions of the Compact cannot be unilaterally terminated by Micronesians even for the sake of their own security interests. United States veto power over Micronesian actions and United States military control of and access to the Territory will remain in effect for 15 to 50 years regardless of any Micronesian need to modify their status. Beyond that, denial to other military forces continues virtually in perpetuity. This seems irreconcilable with United Nations resolution 1541 (XV), which provides that free association

> "retains for the peoples of the territory... the freedom to modify the status of that territory".

(Ms. Quass)

Fourthly, Micronesia, even under the Compact, would remain the responsibility of the United Nations according to United Nations resolution 35/118, which refers to Territories such as Trust Territories and states in paragraph 17:

"the Assembly shall continue to bear [full] responsibility for that Territory until all powers are transferred to the people of the Territory without any conditions or reservations ...".

The aforementioned resolution mandates the United Nations to continue to be involved, since the free association status we are addressing today does not transfer all powers to the people.

I will speak now of the specific situation of Belau.

Belauans have established a direction for their own future. Their Constitution provides many strong points for sustaining Belauan society, preserving the unique Belau environment and promoting regional peace and security. The strength of the Belau Constitution includes: first, territorial limits defined by an archepelagic baseline and an exclusive economic zone extending for 200 miles from that baseline; secondly, land ownership in Belau only for Belauans and limits to Government exercise of eminent domain, including the provision that eminent domain shall not be used for the benefit of a foreign entity; and, thirdly, protection for the unique and fragile environment of Belau by specifically prohibiting the introduction of harmful substances, including nuclear, biological and chemical hazards.

All Belauans worked together to develop this Constitution and we applaud them. It is truly a model for a just and peaceful society fully in concert with the United Nations Treaty on the Law of the Sea and resolutions on disarmament and environmental protection. Belauans must now work to achieve the objectives and goals stated in their Constitution, but, like all emerging peoples, they will continue to need the aid of various Member States and the United Nations to develop the national structures and international relationships that will support the realization of the vision expressed by their Constitution.

In contrast to the just and peaceful objectives of the Belau Constitution are key provisions of the Compact of Free Association offered to the Belauans. Since the beginning of status negotiations in 1969, the Administering Authority has pursued its strategic objectives within the framework of the Compact, which now conflicts with Belauan sovereignty and traditions articulated in the Constitution. It is perhaps inevitable that the outcome of Belau's co-operative, self-definition

(Ms. Quass)

process of writing a constitution would be a national direction different from the one assumed earlier before there was a broadly articulated, conscious national identity.

The Administering Authority maintains that the Belauans have an internal problem. On 13 May this Council heard their representative say that obstacles preventing implementation of the Compact must be worked out by the people of Palau.

We suggest that the obstacle is the Administering Authority's preconditions for Belauan self-determination which contradict key provisions of the Constitution of Belau. Those preconditions centre around fundamental questions of resources and territory, sovereignty and the prohibition of harmful substances and have been defeated five times in the plebiscites in Belau. Thus the conflict is between the right of Belauans to self-determination with their own specific definition of security and the Administering Authority's privilege to pursue its security interests, not only within the terms of the Trusteeship Agreement but in any post-trusteeship period as well. The Trusteeship Council as established is therefore in the position of having to determine whether one country's security interests can be supreme over another people's right to self-determination. Stated another way, can one country's pursuit of its strategic interests take precedence over another people's right to their own definition of security and sovereignty?

The results of five plebiscites since 1979 give ample evidence that key provisions of the free association status negotiated since 1969 do not now reflect the Belauan emerging national direction.

We suggest that there are at least three areas where the Administering Authority is coming into conflict with both United Nations resolutions and the Belau Constitution. If the Administering Authority would drop its preconditions in these areas, surely an agreement would be quickly reached and approved by the Belauan people.

As I speak of these specific areas, I will refer to both Chapter XII of the United Nations Charter and to pertinent resolutions. We note that, while Micronesia is the only strategic Trust Territory, Article 83 of the Charter states that the Trusteeship Council shall assist the Security Council in functions relating to the "political, economic, social, and educational matters in the strategic areas" and do this "without prejudice to security considerations".

(Ms. Quass)

Under the Compact, the United States Government can designate at any time any portion of Belauan land for whatever military use desired and Belau "shall make available the designated area" within 60 days. This and all my comments from the Compact are taken from the Compact placed before the Belauan public on 4 September 1984. Further, this Compact would have bound Belau's definition of territory to the method accepted by the United States. This would currently reduce the constitutionally mandated, extensive archipelagic base line to a trace parallel definition and reduce the exclusive economic zone claimed by Belau to that claimed by the United States.

The Administering Authority is not only setting a condition which would affect Belauan life under the Constitution; it is also overlooking United Nations General Assembly resolution 35/118, which says:

> "Member States ... shall ensure that the permanent sovereignty of the countries and Territories under colonial, racist and alien domination over their natural resources shall be fully respected and safeguarded." (Annex, para. 7)

The Compact gives permission for the United States to introduce any hazardous substances to Belau, including the transit, storage, testing and disposal of nuclear, toxic chemical and biological hazardous substances. These are not now allowed in Belau. Under the Constitution, 75 per cent of Belauan voters would have to approve the Compact to allow introduction of such hazards.

Most peoples and nations of the world now agree that the establishment of nuclear-free zones is an important step in peace-making and that the spread of nuclear devices to currently non-nuclear territories is a threat to international peace. So again, the Administering Authority is not only opposing Belau's sovereign Constitution, but by world standards it is acting inconsistently with the Trusteeship Mandate "to further international peace and security".

With regard to sovereignty, the Compact also provides that Belau "shall refrain from actions which the Government of the United States determines ... to be incompatible with its authority and responsibility for security and defence".

This provision robs Belauan sovereignty of any meaning. The United States has sole authority to determine that any act by Belau is incompatible with United States responsibility and thus veto or prohibit such an act. We state that the reverse should be true. United States sole veto power is incompatible with Belauan inherent authority and responsibility for sovereignty and security, and it is

(Ms. Quass)

inconsistent with the responsibility of the Trusteeship Council under Article 76, "to promote the political, economic, social and educational advancement of the inhabitants of the trust territories".

But I cannot speak only of United Nations resolutions; I must also speak of the people. Perhaps the Council is not fully aware of the impact of continuous negotiations and plebiscites on Belauan life. Four versions of the Compact were developed and analysed for the people of Belau during my one year in Belau. Three versions were made public in the last few months of 1983. In April 1984, negotiations resumed without prior announcement to the Belauan Congress or the populace. Events moved rapidly with the Compact signed in May and a plebiscite set for 31 July. Due to protests of lack of time and several court cases disputing the President's authority to call a plebiscite, the date was postponed to 4 September.

The tragic result for the people of Belau and for the integrity of the United Nations trusteehip system was no official or impartial international observation of what Belauan citizens believed to be a plebiscite for self-determination. Sixty-six per cent of registered voters cast a "yes" ballot, but a significant 33 per cent cast "no" ballots; the constitutional provision of a 75 per cent majority required was not met and the Compact was not approved.

The primary result of this fifth exercise in futility for the voters of Belau was that 788, or 17 per cent fewer registered voters, participated in 1984 than in 1983. The Trusteeship Council must not close its eyes to the erosion of democratic process in Belau through unnecessary and repetitious plebiscites.

Now we hear that negotiations are again under way. Will these also be negotiations with preconditions set by the Administering Authority which are inconsistent with Belau's Constitution and with current United Nations resolutions?

The Council must also be aware that some members of the United States Congress are pursuing what is being called a "Japanese" solution for Belau. An amendment has been introduced which would effectively approve a Compact with Belau contingent on the United States President's report that the so-called nuclear problem of Belau has been resolved. The implementation of this amendment would be, in United States military action in Belau, neither to deny nor to confirm the presence of nuclear materials. Such a move must be viewed as totally inconsistent with the integrity of the Trusteeship Council and the responsibility of the Administering Authority to negotiate in good faith with the Governments representative of the peoples under its trusteeship.

(Ms. Quass)

Given the preceding testimony, we will close by summarizing our recommendations for the action of this Council, which carries so much responsibility for the well-being of the peoples of Micronesia.

First, we urge the Council to view the Compact as an interim status, consistent with United Nations resolution 1541 (XV), which the Micronesians may at any time alter.

Secondly, the United Nations must continue to exercise its responsibility for the region until all powers have been transferred to the people.

Thirdly, we urge the Council to oppose all pre-conditions of self-determination set by the Administering Authority which are in opposition to the Belauans' right to sovereignty.

Fourthly, we urge the Council to carry out its plan to visit the Trust Territory in 1985 and we appreciate the Administering Authority's invitation. We believe that the Council would benefit greatly from visiting outer islands and from meeting with civic, religious, and community non-governmental organizations. We expect that the Council will produce a full report on the status of the Territory, the disposition of its inhabitants and the Administering Authority's fulfilment of its obligations to the peoples of the Territory before any action is taken for termination of the trusteeship.

We believe the members of the Council will work diligently to carry out their mandate as trustees for the peoples of the Trust Territory of the Pacific Islands, and we appreciate this opportunity to offer remarks and recommendations for the Council's consideration.

Mr. FELDMAN (United States of America): There is so much to comment on in Ms. Susan Quass' statement that I could not provide a full reply now. I shall do so, with your permission, Sir, later. However, I want to make a few preliminary remarks.

In her statement, Ms. Quass seemed to take the line that the process of self-determination must be a one-way street leading to independence. In fact, it is a well-established principle that the people of a Trust Territory, in exercising the right of self-determination, may choose independence, may choose integration - as, for example, happened last year with the Cocos (Keeling) Islands - or may choose the status of free association. It is also well established that whatever status they choose that choice must be exercised through a referendum.

Far from having a choice imposed upon them, the people of Palau, as Ms. Quass herself noted, have chosen in referendums, not to accept the proposed compact. The

(Mr. Feldman, United States)

charge that the United States is imposing a compact upon them, therefore, is completely without basis. It is because the people of Palau did not endorse the proposed compact that the compact was not submitted by the President of the United States to the United States Congress.

I should also like to say that the compact, if and when it was adopted, would be a treaty, and a treaty effectuated by legislation. That was also the case with regard to the Trusteeship Agreement in 1947.

As to the question of whether the compact that was submitted, and which was not approved, included a unilateral right for the United States to impose its view as to its responsibilities, defence or otherwise, I should like to read from section 351 of the proposed compact:

"The Government of the United States and the Government of Palau shall establish a joint committee to consider disputes which may arise under the implementation of this Title and its related agreements.

"Any unresolved issue with respect to the implementation of this Title and its related agreements shall be referred exclusively to the Government of the United States and the Government of Palau for resolution."

We shall provide a fuller report at a later time.

The PRESIDENT: I now call on Senator Ataji Balos.

Mr. BALOS: First, Sir, please allow me to congratulate you on your election to the presidency of the Trusteeship Council. I feel, after so many years of coming to New York and of seeing Visiting Missions and special observer teams from the Trusteeship Council in the Marshall Islands and elsewhere in the Trust Territory, that I am truly a participant in the affairs of the Council, and that your recent election to the presidency of the Trusteeship Council is an honour to all of us.

As those who know me are aware, I have come here many times as a petitioner or as a representative of my constituents, particularly the people who have been directly affected by United States weapons testing in the northern Marshall Islands. I have come to seek better treatment for our people and to ask for the assistance and guidance of the Trusteeship Council with regard to our difficult problems.

In the past I have been here on behalf of the radiation-affected people of the atolls of Bikini, Enewetak, Rongelap, Utrik and others. Today I want to speak specifically about the difficulties of my own home atoll of Kwajalein. I represent Kwajalein as its senior senator in the Marshall Islands Nitijela.

(Mr. Balos)

For the past 40 years the people of Kwajalein have felt the devastating effects of the United States presence in the Marshall Islands. Our displacement to Ebeye has been a great cultural shock to my people - we lost not only our land but a great deal of cultural pride and dignity as well. We can no longer live in the traditional Marshallese lifestyle, and we are seeking to protect our right to be given the opportunity to compete fairly in the new urban environment which surrounds us at Kwajalein.

The Council is hearing reports this week from both representatives of the United States Government, as the Administering Authority, and of the Government of the Marshall Islands, regarding the Compact of Free Association. The Compact is under consideration in the United States Congress. For the past two months I have been working in Washington, D.C., meeting with members of Congress.

I must tell members, as a veteran of the political status process and of the negotiations surrounding attempts by the United States to terminate the Trusteeship and end its reporting requirements to this body, that in my view the Compact, as drawn up at present, is not workable for Kwajalein.

However, there are positive developments to report. Before going into specifics, let me share with members my view of the best future relationship for our Kwajalein people and for others in the Marshalls who have been adversely affected by United States military experiments. A much closer relationship with the United States would be best. In that way our people would have both access to and the protection of the United States system. The Northern Marianas Commonwealth is probably the best working model for us. Fortunately, sentiment has been expressed in Washington for moving towards a closer relationship with the United States.

In Congress, there is serious support for the United States Department of the Interior to be the lead agency as administrator of any compact. Our Kwajalein people favour continued Interior Department jurisdiction. That jurisdiction would mean our continued access to those Congressional Committees which have been most sympathetic to our problems. We have been assisted in particular by Congressman John Sieberling.

Such continued jursidiction would assist us to keep our access to the United States domestic system and its well-developed safeguards and remedies.

The areas where we find difficulty with the Compact are where it attempts to create an "international" method of addressing a particular problem.

(Mr. Balos)

For example, a provision such as that under article IV, section 2 of the Status of Forces Agreement, would almost surely lead to difficulty. This clause, which would permit third-party nationals to be employed at Kwajalein Missile Range, threatens both our present Marshallese workers and future employment opportunities.

If, instead of article IV, section 2, the Missile Range were brought entirely within United States labour laws, we could view the future with more optimism. There are indications of movement in that direction in Washington. In fact many elements of the Compact are quite consistent with a future relationship as an integral part of the United States.

For example, the civil aviation provisions and accompanying letter agreements between the United States and the Marshall Islands assure that civil aviation will be operated as part of the United States domestic system, with guaranteed aviation rights in, to, through and beyond the Marshalls confirmed to United States flag carriers.

The Republic of the Marshall Islands explicitly agreed to the Compact's provision that the United States will handle the question of accession to international agreements and membership in international organizations. From this it logically follows that it will be necessary to adopt domestic United States régimes to deal with subject areas in which the United States has declined to accept international conventions.

It is important to do this because it is unlikely that the United States would accede on our behalf to the Law of the Sea Convention, to which it has not itself acceded. Thus, in order to have some applicable law on a question such as deep-sea minerals, we must be brought within the application of United States domestic laws. Similarly, it is unlikely that the United States would act to have the Marshall Islands accede to numerous conventions and recommendations of the International Labour Organisation (ILO), to which the United States has not acceded. That will not be a problem if, before the termination of the United States international reporting requirements, we are brought within the protection of United States domestic régimes.

Our only peril would arise if the Compact went into operation in its present form, without our having the benefit of either international mechanisms - such as ILO conventions protecting the workplace environment, occupational safety, abuse of child labour, social security and other benefits - or inclusion within United States domestic régimes.

(Mr. Balos)

We believe the United States should continue its international accountability until such time as United States domestic protection is extended to us, thus obviating any need for our inclusion in international régimes.

We should devote our efforts to inclusion within domestic United States systems. Adopting such systems would address the present potential for abuses by way of movement of manufacturing or assembly activities into the Marshalls or the Federated State of Micronesia, where they could enjoy freedom from taxation as well as freedom from application of international norms for environmental or workplace protection.

We call on this Council to encourage the United States to make such changes as may be needed in the Compact to ensure that an anomalous situation does not arise, under which we are left without application of either international safeguards or those existing under United States domestic law. We think application of United States mechanisms can be harmonized with the protection of language and culture. While it is true that for the past 40 years we have learned much about America, it is also true that Americans have learned almost nothing about us. We do not view that situation as incurable, and with time and closer ties, Americans may come to know us much better.

I thank you on my own behalf and on behalf of my constituents for allowing me to take up your time to present these matters to you.

I must leave New York tomorrow for the Marshall Islands but I shall be available this afternoon should there be any questions.

Mr. FELDMAN (United States of America): I, too, wish to express my thanks to Senator Balos.

I would like to reassure him on two points: that is, the United States has said to the Government of the Republic of the Marshall Islands and to the Federated States of Micronesia, that once the Compacts of Free Association are approved and the Trusteeship is dissolved, the United States would have no objection whatsoever to the Republic of the Marshall Islands signing the Law of the Sea Treaty. I can certainly give him that assurance.

In general, let me read from the Compact as to the conduct of foreign relations, because this will relate to the question of signing ILO conventions and receiving the benefit of those conventions and other international instruments.

(Mr. Feldman, United States)

I am quoting from Section 121 of the Compact:

"(a) ...

"(b) The foreign affairs capacity of the Governments of ... the Marshall Islands, and the Federated States of Micronesia includes:

"(1) the conduct of foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and non-living resources from the sea, seabed or subsoil to the full extent recognized under international law;

"(2) the conduct of their commercial, diplomatic, consular, economic, trade, banking, postal, civil aviation, communications, and cultural relations, including negotiations for the receipt of developmental loans and grants and the conclusion of arrangements with other governments and international and intergovernmental organizations, including any matters specially benefiting their individual citizens.

"(c) The Government of the United States recognizes that the Governments of ..., the Marshall Islands and the Federated States of Micronesia have the capacity to enter into, in their own name and right, treaties and other international agreements with governments and regional and international organizations."

I should also like to refer back briefly to the remarks I made a few moments ago after we heard from Petitioner Susan Quass to the effect that the exercise of self-determination could include a closer relationship or independence or free association. We have just heard from a petitioner, Senator Balos, whose remarks seemed to bear the thrust that he himself would prefer, in fact, a closer relationship. I simply wanted to point that out.

But certainly the Senator can be reassured as to the ability of the Republic of the Marshall Islands to adhere to the Law of the Sea Treaty, ILO Conventions, or any other international instrument in its own name and right.

The PRESIDENT: I understand that Mr. David Anderson wishes to make a brief further statement, and I invite him to do that now.

Mr. ANDERSON: I had hoped to have an opportunity to respond to the remarks of the United States following our opening remarks.

I should like to say, if I might, that I thought his reply was more in the way of a confirmation of what we had said than a rebuttal of it. I believe that he confirmed the fact that the planning programme has not yet reached the point where

(Mr. Anderson)

the people there can return to the subsistence economy from which they were taken at the time of the testing programme.

I think that he revealed, probably for the first time in this body, that there are some 12,000 coconut trees in the northern part of Enewetak Atoll that have been found to be contaminated and not useful either for food or for coco production and they stand there, if not as a menace, at least as an open question of what needs to be done about them.

I would point out that the representative of the United States did not say that the United States would not terminate the trust, only that our decision to do so has not yet been made; we do not find that particularly reassuring nor in any way, shape or manner an answer to our concern.

What we ask for is that the United States should not be permitted to terminate the trust until it can demonstrate to the satisfaction of the Council that the problems that we have raised are settled.

The United States representative said that the United States planned to continue the food programme for two or three years. That is indeed good news, if such be the case. However, it is our impression, from the inquiries that we have made to date in Washington, that that may very well not be the case. But certainly it is something about which I think that you should ask for considerably more specification that was contained in his answer.

We, for example, should like to know for exactly how many years the United States intends to continue it or until what point in the progress of the crop planning programme; the United States intends to ask Congress for the funds to do it each year, and, if so, under what authority it intends to do that; and, whether it intends to continue both the crop replacement programme as well as the food programme during that time.

As for the nuclear claims' payment of $812,000 every quarter, which the representative of the United States said should make it clear to the world that the Enewetak people have not been left "high and dry", I think, here again, the representative of the United States confirmed our view that the United States expects the people of Enewetak to use their money, which is to pay for the damage done by the nuclear testing, to continue the Enewetak Support Programme which, we submit, is quite another matter.

As for the adequacy of the funds to do that, that, too, is an interesting matter, for the present value of the funds the United States has earmarked for Enewetak in the Compact is approximately $25 million. The present anticipated cost of the resettlement of Engebi is $10 million.

(Mr. Anderson)

The present out-of-pocket and overhead costs associated with the Enewetak support programme are probably somewhere in the neighbourhood of $1.25 million to $1.5 million a year. In short, it would take all or nearly all the money that the United States has put on the table in payment of its claims simply to take care of the United States existing obligation to provide for the resettlement of Engebi and for the continuation of these programmes.

We think it is a snare and a delusion to suggest that those payments are somehow or other adequate to discharge that responsiblity. As the United States representative knows, more than half of those payments are required to be set aside for investment purposes and are not available for ongoing programmes, except for a very small part of their additional income.

If one thinks for a moment about what the United States representative has said, one finds that he has confirmed as much as he might be expected to, and perhaps more, that the concerns we have expressed in our petition are indeed genuine and indeed need to be addressed before this body permits the trusteeship to be terminated.

The PRESIDENT: I now invite Mr. Douglas Faulkner to add a brief comment.

Mr. FAULKNER: I feel that today, somehow or other, we are actually having a dialogue; a kind of conversation back and forth in slow motion, but at least a conversation, which is one of the things that I feel has been lacking in the past. I should really prefer to be sitting in the Security Council Chamber, where we could all face each other and not have to look at each other's backs, but I guess it is something that we are at least able to hear each other's voices.

I thank Ambassador Feldman very much, from the bottom of my heart, for his comments. I feel that the ice may be thawing a little.

But I should like also to say this. As a photographer I have published six books. Each one of those books required a contract, a kind of compact of free association if you will; perhaps not a gentlemen's agreement all the time, but an agreement between author and publisher. In the Compact of Free Association between Belau and the United States there are 30 pages of military requirements, needs, specifications, charts and so forth. I have always found in my own dealings with publishers that I do not allow my contracts to contain things I am not happy with; I will not sign something that I am not happy with.

I greatly appreciate Ambassador Feldman's comments. I am sure that, deep down, the United States would prefer never to build a military base in Belau, because it is a huge expense, and let us hope that some day it will not be

(Mr. Faulkner)

necessary. But I am very concerned about the fact that today we can say that we will not do it, and next week or next year or 10 years from now we shall say that we will.

I have always thought that the United States would take Belau for a military base if it absolutely needed it, in the event of a major war or conflict, no matter what the conditions, so that it really did not matter whether this was in the Compact or not. I realize that things are better if they are planned than if they are not planned, if they are prepared for than if they are not prepared for, so I understand why the United States Government would prefer to have these things in writing or spelt out in some way or other, and would prefer some agreement, some mutual understanding, to be reached between the people of Belau and the people of the United States.

Nevertheless, I should like to see something that more adequately reflects just what the relationship is between the United States and Belau on a more realistic basis. It may possibly be that the people of Belau would then go ahead and give the Compact its approval on the scale the United States needs in order to implement everything.

I have no objection to the people of Belau having some association - whether very close or distant or in-between - with the United States. Obviously, if the United States had not been the Trustee of Belau I might never have set foot on Belau's shores or swum in its waters. My Government, which provided buildings, compressors and boats, and which paid people, contributed in many ways to my work there, because, in the early years, without a compressor I would have been doing no diving and taking no photographs, and no one would have known how beautiful it was and still is.

I hope that somehow some agreement with Belau can be worked out that will accurately reflect the military needs of the United States Government and also be acceptable to the people of Belau.

Mr. FELDMAN (United States of America): In asking for permission to comment on the petitioners' remarks I did not necessarily wish to change the procedures of the Trusteeship Council - to start a dialogue, as Mr. Faulkner put it. You, Sir, might not have had that in mind.

While I am quite prepared to reply at this point to Mr. Anderson's further comments, there is some doubt in my mind whether that would be the most useful employment of the Council's time. We might get into a kind of "back-and-forth" between Mr. Anderson and myself, or another petitioner and myself, and that might

(Mr. Feldman, United States)

not be the most useful exercise. Procedurally, might it not be better to have one "back-and-forth" rather than a series of "backs-and-forths"?

Having said that, I am quite prepared, if you wish and if you will grant me the time, to reply at this point to Mr. Anderson's further remarks.

The PRESIDENT: It is entirely up to the representative of the United States whether he replies to the additional comments which have been made. I am certainly determined to keep control over these proceedings and have no wish that there should be a prolonged dialogue between the United States representative and any petitioner. At the same time, I am determined to ensure that petitioners receive a full and fair hearing. If the representative of the United States wishes to respond, he is, of course, entirely at liberty to do so.

Mr. FELDMAN (United States of America): In that case, I should like to observe that, in addition to the payment of $812,500 to be distributed every quarter among at present 614 people, there is a sum of $30 million specifically earmarked for health, food, agricultural maintenance and radiological surveillance to be disbursed in annual amounts of $2 million over the 15-year period of the Compact of Free Association with the Government of the Marshall Islands.

The PRESIDENT: Do members of the Council wish to address any questions to the petitioners we have heard so far?

Mr. MORTIMER (United Kingdom): The hour is late and I do have a number of questions, and I shall certainly reserve the right to continue them this afternoon. I merely wanted now to address what I consider a topical question to Mr. Anderson, since both he and Mr. Feldman have been exchanging replies on the subject of Enewetak.

Just for my own clarification, I wonder if Mr. Anderson could tell me how many islands there are in the Marshalls, and how many comprise the Enewetak Atoll. That is my first question.

The PRESIDENT: Would Mr. Anderson like to answer that question?

Mr. ANDERSON: As I understand it, there are some 28 or 29 atolls in the Marshall Islands chain and some individual islands that are not part of atolls, such as Kili, where the Bikini people live.

In Enewetak, which is a coral formation, I understand there are some 40 islands which make up the atoll, of which five were vapourized by the United States during the testing programme.

Mr. MORTIMER (United Kingdom): The reason I asked the question is because I wanted to know on what legal or constitutional basis Mr. Anderson would argue that Enewetak should be treated separately to the other 28 atolls in the Marshall Islands.

The PRESIDENT: Would you like to take that question, Mr. Anderson?

Mr. ANDERSON: The answer is a very simple one: the United States, in an act of high international trespass in 1947, took the atoll of Enewetak for its United States nuclear testing programme, and when it did so, in our view it not only violated the Trusteeship Agreement, but it undertook a duty of care to the people of Enewetak which we believe the United States is required to discharge in full before it may be relieved of its responsibilities as the trustee.

The PRESIDENT: Are there any further questions?

Mr. MORTIMER (United Kingdom): I think the answer I was groping for was this: since 1947, of course, the Marshall Islands have established their own Constitution and, as Mr. Feldman reminded us, it has actually been voted on and, indeed, the Enewetak islanders themselves participated in that referendum. I assume, therefore, that constitutionally, it is the Marshall Islands Government that represents their interests, and I was wondering whether the negotiations that would be conducted between the United States and the Marshall Islands would be conducted through the Marshall Islands Government or with the Enewetak islanders themselves. It seems to me that under the present constitutional arrangements, it is for the Marshall Islands Government to negotiate the welfare of Enewetak.

The PRESIDENT: Mr. Anderson.

Mr. ANDERSON: The situation referred to by the representative of the United Kingdom is indeed an interesting one. It should be pointed out that there was no government of the Marshall Islands until 1979, and from 1947 until 1979, Enewetak, to the extent that it was able to speak to the United States, spoke for itself. With the formation of the anticipatory government in 1979, it is conceivable that the status has changed and that to some degree the Marshall Islands Government does speak for us, and I think we acknowledge that.

However, at the time of the negotiations on the Compact and on the Section 177 agreement, it was the view of all concerned that the peoples of the four atolls affected by the testing should be represented separately and on their own behalf. That procedure, by the way, which led to some interesting arrangements from time to time, did not work altogether well. For one thing, the Marshall Islands did assume, for a number of reasons, that ultimately it spoke for us. The problem is

(Mr. Anderson)

that in settling the claims arising out of the testing programme, nobody else really can speak for us. The Marshalls are in a position where their interest in representing us on that question is only one of a large number of interests they have and which they have to judge as a group, thus making it impossible for them to take the same position on the settlement and the arrangements as the people of Enewetak themselves.

Mr. MORTIMER (United Kingdom): I am grateful for that explanation, but it seems to me that, to paraphrase Gertrude Stein, a government is a government is a government. And when a government is elected, it negotiates on behalf of those who elected it. That it why I asked the question about the extent to which Enewetak can consider itself, since 1979, separately represented as far as negotiations with the United States are concerned.

Mr. RAPIN (France) (interpretation from French): I should like to return briefly to the petition that was presented by Mr. Faulkner. Mr. Faulkner, as I understood it at the beginning of his statement, reproached a majority of members of the Trusteeship Council with having decided last year to withdraw from the Council's report to the Security Council the summary of petitions submitted each year at our regular session. As I had the privilege last year, Mr. President, of occupying the position that you hold this year, I was closely involved in the consultations held on this particular point and I played a special role in the decision that was taken. This is why I should like to address the following comments to members of the Council and the petitioners present here, particularly Mr. Faulkner.

The first point is that when the Secretariat, or we ourselves as members of the Council, found ourselves faced with the task of summing up the petitions that had been submitted to the Council, we came up against serious difficulties that were hard to overcome. The difficulties lay mainly in the fact that, most of the time and in most cases - and I see that this is happening again this year - petitioners made fairly short statements which contained elements critical of the actions of the Administering Authority or local governments, and under those circumstances it was very difficult to choose between the various elements of the arguments put forward without seeming to take sides or to emphasize one aspect rather than another, and thus not be objective. According to information I was able to gather, in previous years, even before I personally was a member of the Trusteeship Council, very lengthy discussions had been held among members of the Council and the Secretariat on that particular point. It seemed to us that under

(Mr. Rapin, France)

those circumstances it would be fairer to mention the petitions but to refer persons who wanted to examine them, and who had not been present at our meetings, to documents available to the public. My second comment is that the contents of the petitioners' statements are issued in extenso, together with statements by members of the Council, in the verbatim records of our meetings. These are available in several languages and they are available to the public.

That brings me to my second comment. The petitioners' statements are fully reflected, along with those of members of the Council, in the verbatim records of our meetings, which are available in several languages and available to the public.

My third and last comment is that our meetings are not closed; they are open to the public, they are open to the press, and, in the light of my experience as President last year, I know that the hearing of petitioners is witnessed by many in the press gallery. For example, last year The New York Times carried several articles on the petitions that were made here in the Council. Thus no petitioner has ever been denied the right to speak and to be heard.

Last year I felt, as I still feel, that the decision taken by a majority of members of the Council - it is true that not all members voted for it - was perfectly fair and correct and in no way jeopardized the rights of petitioners, who indeed make an essential contribution to the Council's monitoring of the situation each year.

Mr. MORTIMER (United Kingdom): May I just very briefly associate myself 100 per cent with the remarks of my colleague from France. I might also say that our report to the Security Council covering the period November 1983 to July 1984, in paragraphs 108 and 109, actually states that the Trusteeship Council heard 12 petitions; the subjects of their petitions are listed, and indeed there is cross-referencing with the requisite verbatim records of the Trusteeship Council session, to which my French colleague referred.

The PRESIDENT: This afternoon we will hear statements by Mr. Glenn Alcalay and Mr. Leslie Tewid. I hope that the petitioners who have made statements this morning will also be present so that members of the Council may have an opportunity to put questions to them.

The meeting rose at 1.05 p.m.