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VERBATIM RECORD OF THE FIFTEEN HUNDRED AND EIGHTY-EIGHTH MEETING

Held at Headquarters, New York,  
on Tuesday, 21 May 1985, at 3 p.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)

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The meeting was called to order at 3.20 p.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)

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): We have listened very carefully to all the statements made at this session of the Trusteeship Council and have studied the report submitted by the Administering Authority very carefully. We have quite a few questions in connection with the statement made this morning by the representative of the United States, Mr. Feldman. Unfortunately we could not study it thoroughly as we did not have enough time for that.

The first question we think should be asked relates to the ideas expressed by the representative of the United States on the criteria relating to self-government and other aspects of the political status of the different Territories, particularly Micronesia. Mr. Feldman said that an absolutely fundamental international criterion of a self-governing status was freedom of choice. No one would argue with that, but what is the situation now? Obviously, we must clarify the question of just how that freedom of choice is ensured, because measures must be taken to ensure the implementation of that right.

My question, then, is this. With respect to Micronesia, does the Administering Authority feel that the conditions necessary to ensure freedom of choice have been created, made available?

Mr. FELDMAN (United States of America): I believe that the political education campaign to make it possible for the inhabitants of the Trust Territory of the Pacific Islands to know in detail the choices open to them and the meaning of those choices, and, indeed, the level of knowledge of the choices, were certified by the Visiting Missions which observed the plebiscites in the three Territories of Palau, the Federated States of Micronesia and the Republic of the Marshall Islands.

It will be recalled that in my lengthy statement this morning I read from the conclusions of the Visiting Missions in all three areas, which were that a free, fair and wholly educated choice had been made by the inhabitants. I read also from

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the earlier report of the United Nations Visiting Mission with respect to the plebiscite which took place a decade earlier in the Northern Mariana Islands, which was similarly certified as to both the political education campaign and the conduct of the plebiscite itself. Therefore, while the administering Power certainly believes that the answer is yes, the United Nations Trusteeship Council, too, believes that the answer is yes.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): I had expected that the Administering Authority would understand that ensuring freedom of choice in a Territory is not only a matter of carrying out a "political education campaign". I am sure that everyone agrees that ensuring freedom of choice should include ensuring of the economic condition of the Territory. This, as we understand it, is the decisive factor in guiding the proper exercise of freedom of choice.

(Mr. Berezovsky, USSR)

At this time we shall not expatiate on the way in which the political education campaign was carried out. That is a rather different question, although there is something to be said and something to be asked about it. At this time we are talking about something else. We are saying that in our view - if it is not so the representative of the administering Power can correct us - participation in the plebiscites, which were observed by certain members of the Trusteeship Council, and the technical aspects of the plebiscites were, superficial phenomena. Underneath all this there was and there continues to be the question of the economic condition of the Territory. So our question is this: does the Administering Authority consider that it fulfilled all the requirements, including the requirement of the economic preparedness of the Territory, in order that the people of the Territory could genuinely exercise freedom of choice?

Mr. FELDMAN (United States of America): We seem to have heard a very lengthy statement and a very peculiarly phrased question. I will try, nevertheless, to answer the question and some of the interesting assumptions in the statement. Let me begin by pointing out that in the world of the Pacific Ocean there are a great number of small island States and that few, if any, of them - with the exception of Nauru, with its phosphate - are capable of economic independence. Papua New Guinea, to take one example - and I hope that if there is a representative of Papua New Guinea here he will not chastise me for using this example - receives an annual subvention from the former trustee, Australia, amounting to 25 per cent of the annual Government budget. Very large subventions are given by the former colonial Power, Great Britain, to the Solomon Islands. Other subventions are given to other independent States in the South Pacific, such as Kiribati and Tuvalu. The point is - for those who have no experience of these island States, which are much water and little land, which exist very often in isolation from normally travelled trade routes, and which have scant resources - that it is very difficult for these States to acquire economic independence. Nevertheless, it has been a maxim of the United Nations throughout the decolonization process that such States should not on that account be denied self-determination.

I believe that self-determination was properly exercised in the Federated States of Micronesia, the Republic of Palau, the Republic of the Marshall Islands

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and the Commonwealth of the Northern Mariana Islands. Aside from that belief, I also know, as I have said, that the referendums, plebiscites, which took place there have been attested to by the United Nations as legitimate acts of self-determination.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): I am very grateful for the comments which have been made by the representative of the United States. We can only regret that he did not give a clear and unambiguous answer to the question we asked.

Since we have now begun to talk about criteria, we should like to ask another question in this connection of the representative of the United States. How does the representative of the administering Power understand the concept of sovereignty as it applies to United States plans for the Trust Territory of Micronesia? I ask this question because this was mentioned in the statement of Ambassador Feldman and has also been dealt with in other statements we have heard in the Council at this session.

Mr. FELDMAN (United States of America): In my statement this morning I adverted to the four attributes of sovereignty which generally are recognized as such in international law. The four criteria which are used in international law are: a defined territory, a distinct population, a government with substantial control over that population and territory and the capacity to engage in foreign relations, to enter into agreements, make treaties, join organizations and so on and so forth. That is the ordinary understanding of sovereignty. Of course, different speakers in different contexts will use it in different senses.

(Mr. Feldman, United States)

For example, I suppose that on whatever is the anniversary of the date of the entry of, let us say, the State of Virginia into the federal union in the United States, speakers in Virginia will talk in terms of the sovereign commonwealth of Virginia. That would be a rhetorical flourish, I suppose, not a statement consistent with international practice.

But the point I made this morning was that what is contemplated under the Compact of Free Association is fully consistent with the sovereignty and self-government of the Republic of Marshall Islands and the Republic of Federated States of Micronesia in much the same way as the agreement on free association between New Zealand and Cook Islands is consistent with the sovereignty of Cook Islands, in much the same way as the agreement on free association between New Zealand and Nieuwe is consistent with the sovereignty and self-government of Nieuwe.

Mr. ROCHER (France) (interpretation from French): My delegation would like to refer to the statement of a petitioner concerning the island of Egit. According to that statement, the Government of the Marshall Islands decided to transfer the island of Egit to private individuals, although we were told that this land was still considered to be part of the public domain. My delegation would like to know the opinion of the representative of the Marshall Islands concerning this.

The PRESIDENT: I call on Mr. Gunasekera.

Mr. GUNASEKERA (Special Adviser): We would like to explain this issue in greater detail in our statement later on, but for now we would like to state that at the moment we are not aware of any clear legal document which states definitely that this is public land.

At the time that the Bikini people were resettled, there were two families which were not willing to be resettled in Kili Island. At that time, the Marshallese Government, with the consent of the Trust Territory administration, agreed to settle those two families on Egit Island as a temporary measure. At that time, those two families preferred to settle down in Kwajalein but there was no land available in Kwajalein on which they could settle. Over the last few years they have been joined on the island by members of their extended families, with the result that the island's population has increased to its present size.

At the moment, the Marshall Islands Government has not taken any steps to hand this land back to those who might have traditional land-owning rights. The

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position of the Marshall Islands Government on this issue is that this is purely an internal matter which should be taken up by the people concerned with the Government of the Marshall Islands through proper channels. So far, no formal representations have been made by the people affected to my Government.

We will be explaining this issue further in our statement.

Mr. ROCHER (France) (interpretation from French): In the same vein, we should like to ask a question following the statement made by a petitioner who stated that the Chamorro people have been uprooted by action of the American navy and transferred from Yap to Tinian. We have also heard that the same people were once again forced to move from their land on Tinian for military reasons.

Could the Administering Authority or the representatives of the Territory shed some light on this subject?

Mr. FELDMAN (United States of America): I should like to request that High Commissioner McCoy reply to the question, with your permission, Sir.

Mrs. McCOY (Special Representative): To respond to this question correctly and to correct any misunderstanding which may have resulted from the petitioner's statement, it is necessary to have a very brief history lesson.

In the first place, a group of Chamorros, people from the Mariana Islands, fled the Spanish Administration at different times and settled in Yap, where they remained through the German and Japanese periods.

After the Second World War, the Chamorros of Yap petitioned the United States navy, then administering the islands, to be returned to the Marianas. Since all of the Chamorros had been removed from Tinian by the Japanese for their agricultural activities, and later for fortification, Tinian was without any population after the Japanese military forces were removed. The navy then assisted the Chamorros from Yap to resettle on Tinian and granted substantial agricultural homesteads and helped them to establish the main village of San Jose.

The rest is negotiating history related to the covenant to establish the Commonwealth. It was agreed by the negotiators, including representatives of both Tinian and Rota, that a certain portion of Tinian would be leased to the United States on a contingency basis. It is the responsibility of the Northern Marianas Government, using money from the payment for the lease, to make the land available to the United States. In doing so, landowners within the military lease land have

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been offered either cash settlement or land exchanges in other parts of Tinian, or even on Saipan. The terms and conditions of this action have been determined by the Northern Marianas Government.

Mr. FELDMAN (United States of America): May I suggest it might also be useful at this point to hear from the representative of the Northern Marianas Government on this same question?

Ms. TENORIO (Special Adviser): We responded in quite a bit of detail last week on this question. We agree with the High Commissioner's historical presentation and would just like to say that the question of what constitutes full compensation, and other matters affecting these eminent domain proceedings, which are authorized by the Commonwealth Constitution, are legal issues presently under the jurisdiction of the Commonwealth courts. We are confident that our local courts will reach a disposition of this matter that is fair and equitable to all concerned.



Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): As I understand it, the representative of France has not finished asking his questions, which was the case when I was asking questions. I have many questions which are logically linked to each other. I should therefore prefer to wait until my colleague from France finishes asking his questions, after which I shall ask my questions.

Mr. ROCHER (France) (interpretation from French): I asked to speak simply in order to assure my colleagues that I did not want to monopolize the Council's time and that I decided to allow time for other delegations to ask their questions. As for our delegation, we do have other questions but we shall wait for a more favourable time to ask them.

Mr. MORTIMER (United Kingdom): I have no wish at all to interrupt my Soviet colleague, or indeed any other member of the Council, but it seems to me reasonable that, rather than adhering to previous practice whereby one delegation asked a whole series of questions, we should allow any delegation that wishes to pursue a particular topic after another delegation has asked some questions, to ask for the floor in order to follow up its particular theme. I do not think there is any rule or convention in this Council that suggest that one delegation must ask all its questions seriatim, as it were. It seems to me that since our time is limited and since we all have questions to ask, it would be reasonable for all of us to be able to, shall we say, intermingle our questions and ask them not in order but whenever it suits us.

The PRESIDENT: That is certainly my understanding. I have little choice but to respond to the first raised hand.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): I have even less desire to establish any kind of practice or precedent here with regard to asking questions. I was simply trying to be polite to my colleague from the French delegation, as well as to my British colleague.

If there is no objection now and if there is consensus, I should like to ask another question. However, before doing so I should like to continue my remarks concerning the statement by the representative of the United States when he replied to my question about sovereignty. Perhaps his wording was incomplete. As far as I can remember, in international law the sovereignty of a State includes, first of all, the completeness - and I emphasize the word completeness - of the legislative,

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executive and judicial authorities on its territory, excluding any foreign authority, and also the independence of the State from the authorities of any foreign State in the area of foreign relations. Such a formulation does exist.

I now come to the question that I wanted to ask. Based on the logic of the explanations given today by the representative of the United States, I wish to ask the following question: How does the Administering Authority understand the concept of a State? The word "State" has been used many times both in today's statements of the representative of the Administering Authority. It is also used in the report of the Administering Authority on the Trust Territory of the Pacific Islands in which certain parts of Micronesia are frequently referred to as States.

Mr. FELDMAN (United States of America): I am at a disadvantage in that I came prepared to report on the United States administration of the Trust Territory of the Pacific Islands and I am not, I would hasten to say, an international lawyer. I am fortunate that a member of my delegation is, and, with your permission, Mr. President, I shall call upon her very shortly to answer the question as to the definition of a State.

Before I do so, I hope that you, Mr. President, and our colleague from the Soviet Union will allow me to point out the homely truth that there are States and States. There are some States, including Members of the United Nations, which do not have the capacity, for example, to conclude military alliances. I refer to the Ukraine and Byelorussia. One would have to say, I think in practice, before we hear a legal definition, that the scope for what is a State and what is sovereign, and what is sovereignty and what is a capability to carry on foreign relations, is an exceedingly broad - not a narrow - term at all. Having said that, with the President's permission, I shall ask Ms. Selby, the Legal Adviser to our delegation, to respond to the question.

The PRESIDENT: I call on Ms. Selby.

Ms. SELBY (Adviser): I think this discussion could become somewhat metaphysical and therefore I hope it is clear in what I say - I am not trying to be definitive about the true nature of principles of international law here, but merely to express our views, as they have been presented, in somewhat greater detail.

Some of the petitioners have used the term "sovereignty" in a way that seems to be the same as "independence". Certainly if you take that view, you take that

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view. There is no dispute about whether the freely associated States are independent States. They are not; they are freely associated. However, as Ambassador Feldman has said, there are concepts of statehood apart from concepts of independence and the criteria which have been cited are met by the freely associated States, and that is why they are called States, from a common sense point of view. They will have incidents of sovereignty, they will issue their own passports, they will have an internationally recognized flag, they will be able to conduct international relations on their own account. So I think that is the answer. If someone wants to dispute the significance of the term "sovereignty", as to what it might actually mean under international law, I think perhaps that is a side issue. We merely intended to describe our view of the Compact.

I might also note that sovereignty is not a criterion for self-government. But because it was said that the United States did not believe that these would be sovereign States and since that is not true, we corrected that statement.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): I must say that I at least expected such a conclusion, that is, that our discussion might take a metaphysical turn, as the United States representative put it.

Every question that we ask is directly related to the matter that we are considering - namely, the situation of the Trust Territory of the Pacific Islands, and to problems arising from what the representative of the administering Power says in the course of our discussion.

In answer to the comments of the United States representative regarding the Soviet Republics, the fact is - and I am sure he knows this; it does not take an expert in international law - that all the Soviet Socialist Republics became independent after which they chose to be part of the Union. That is - practically the same thing as took place during the struggle of the United States for independence. According to my knowledge of the history of the United States, as the states won their independence they united. At first there were 13 states and then the number increased. However, this has no direct connection with the matter with which we are dealing here.

I should like to get clarification from the administering Power on one point. We hear a lot in the Trusteeship Council about United States plans for the future political status of the Trust Territory of the Pacific Islands. Reference is frequently made to the "Compact of Free Association" and to "covenant". It is hardly necessary to recall once again that Micronesia is a Trust Territory of the United Nations, which entrusted administration of this Territory to the United States and therefore is responsible for and must know what is going on in the Territory. I will not quote the relevant parts of the United Nations Charter at this time, or go into details and quote from the Trusteeship Agreement. All that is clear. The Trusteeship Council has not been presented with any of the so-called compacts of free association and it has not examined or considered any such documents. In the present case all members of the Council are in a different position as far as the United States is concerned. The United States has prepared this document, which, however, has not been submitted to the Council for consideration.

At the last session of the Trusteeship Council, we asked the administering Power about another document which we know exists - the new so-called compact regarding Palau; we asked if we could have a copy of that document. If the United States delegation would be so good as to refer to the records it would see that the United States representative, Ambassador Sherman, promised to present that document

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to the Council in the near future. It was not presented. I say nothing of the additional Agreements which accompanied the so-called compact, which have not been submitted to the Trusteeship Council either.

The Trusteeship Council is in fact discussing the situation in Micronesia on the basis of what is said here by the representatives of the administering Power. This is the same thing as took place, as we know from the document, with the member of the group which advocated in Palau that the inhabitants vote in favour of the Compact, and then when they went into greater detail it turned out that the member of the group had not even read it. What can we say about such a member of the group?

Mr. FELDMAN (United States of America): This is more of a comment than a reply, since no question, as I understand it, has been asked.

I will begin by saying that in my mention of the Republics of the Ukraine and Byelorussia I meant no disrespect. Obviously the histories are different. I simply wished to point out that there was before us an example of States which had the competence to carry on foreign relations, as have the Ukraine and Byelorussia, but which are precluded by other commitments to the Union from carrying out a wholly independent defence policy. That was my only reason for making that comment.

As for the suggestion that the United States is keeping the Council from knowing what is going on in Micronesia, I really wonder whether that is credible in view of the Visiting Missions that have been there. Similarly, the statement that although we have talked and talked about Compacts these Compacts were never made available is also rather peculiar in view of the fact that the Visiting Missions that went to observe the plebiscites in the Federated States, Palau and the Marshall Islands of course had the Compacts that were then being considered in connection with the choice of independence, free association or a closer relationship with the United States. So there is no secretiveness there either.

But possibly the representative of the Soviet Union is talking about the current compact, as it were, with the Republic of Palau, in which case I must say that there is no current compact. As I and others have stated, the position with regard to Palau is that, inasmuch as the compact that was voted on did not receive the required constitutional three quarters - that is, 75 per cent - of the vote, the compact is not in such form that it can be submitted to the United States Congress or Government or to this body. It has in effect no standing. That being the case, we have not provided it.

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As to the statement that we have some secret plans afoot, let me say that there is nothing secret. It should be quite clear to all members of the Council that in the fullness of time the United States and the Micronesian States will come before this Council and request the termination of the trusteeship. I say "in the fullness of time" because the final approval of these Compacts remains to be given, and that is the case as well with regard to the Compacts of Free Association for the Federated States and the Republic of the Marshall Islands.

The Council, nevertheless, may be completely assured, as may the representative of the Soviet Union, that when the Compacts have been fully and formally approved by the administering Power and by the States themselves we shall certainly repair to this Council with the request that the trusteeship be dissolved and that the new States join the family of States.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): I deliberately listened on the English channel to the statement just made by the representative of the United States to ensure that we were speaking the same language.

I did not ask my question three minutes ago, for the purpose of the Trusteeship Council's receiving a document post factum. From what the representative of the United States has said, it would appear that the function of the Trusteeship Council is not even to observe, but merely to listen to what has been done after the United States has done what it feels is necessary to do in the Trust Territory.

The functions of the Trusteeship Council as laid down in the United Nations Charter, are not in accordance with what the representative of the United States stated this morning.

So far I have not quoted directly from the Charter, but I now feel compelled to read out the precise language of Article 75 of Chapter XII, "International trusteeship system", which provides as follows:

"The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories."

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It then goes on to say, in Article 76:

"The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

- a. to further international peace and security;
- b. to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement; ...".

The United Nations Charter requires the members of the Trusteeship Council not simply to take note of faits accomplis in a Trust Territory, but promote the political, economic, social and educational advancement of the inhabitants of the Trust Territories. In connection with what is going on now, however, the Trusteeship Council does not have the documents prepared by the Administering Authority, it has not examined those documents and cannot say whether they really are promoting the political, economic, social and educational advancement of the inhabitants of the Territory.

The Administering Authority says that these documents are designed to promote these goals, but under the Trusteeship Agreement the Administering Authority has an obligation to guide the Territory towards a state in which the peoples can exercise freedom of choice. According to the United States representative there is no new compact for Palau. If I am wrong about this, I apologize, and if there is such a compact we would like to see it, because we have no indication of its content.

The representative of the United States has said that he is hiding nothing, but at this very moment, as we understand it, representatives of Palau and of the United States are engaged in one-to-one talks, and negotiations are taking place on how to change or circumvent the Palau Constitution.

Only today the representative of Palau has said that he cannot talk about the subject of the negotiations because a commitment has been made to the special representative of the United States Administration not to divulge the substance of

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the negotiations until results have been achieved. I think the Trusteeship Council could have been of real assistance to the people of Palau in this situation.

In any event, I should like to have a more specific answer from the representative of the Administering Authority as to whether the United States intends to make the documents prepared by it available to the Trusteeship Council and, if so, when it will do this. The documents I am referring to are the "Compacts" and the supplementary Agreements to the Compacts between the United States and the different Micronesian entities.



Mr. MORTIMER (United Kingdom): I should like to correct something that the representative of the Soviet Union said - that members of the Council do not have the Compacts available to them. I do have these Compacts available to me, except in the case of Palau, in respect of which, as Ambassador Feldman has pointed out, there is no compact extant at the moment. But I have copies of the Compacts with respect to the Marshall Islands and the Federated States of Micronesia. Indeed, in the case of the Federated States I have three copies of the Compact, one in English, one in Yapese and one in Ulithian. Indeed, I recall from my visit to the Federated States to observe the plebiscite on this Compact that there was a room in one of the offices that was literally bursting with copies of the Compact, freely available to all concerned. Of course, had our colleague from the Soviet Union accompanied us on that Observer Mission, he too would have been able to arm himself with copies of the Compact in respect of the Federated States and, indeed, in several languages if he so wished.

Mr. FELDMAN (United States of America): The fact of the matter is that those Compacts which exist are available. Indeed, I have seen the document before me in the hands of our friend from the Soviet Union, so I know that he has it too.

But, of course, what he is saying is something quite different. He is saying that the Trusteeship Council should be a party to the negotiations; should participate in the negotiations between the Republic of Palau and the United States. I am afraid that is not part of the oversight responsibility of the Trusteeship Council. Nor, as far as I am aware, has such a role been undertaken previously. For example, in the case of the lengthy negotiations - which went on for over three years, I believe - between Australia and Papua New Guinea, the Trusteeship Council was not a party. Similarly, in the negotiations which have gone on between other administering Powers, such as France, for example, and "administerees" - if I may be forgiven the neologism - such as Cameroon, the Trusteeship Council has not been a party.

The Trusteeship Council has oversight responsibilities. The United States reports to the Trusteeship Council, which I thought was what we were doing here. As part of that report, we file quite a thick statement, with reams of statistics. But, as I have said, that is not what our friend from the Soviet Union is interested in. He does not care about the statistics or the report. What he wants is to participate in the negotiations. But that, as I have said, is not a function of the Trusteeship Council.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): I am grateful to the representative of the United Kingdom for having directed me to where I can find copies of the Compact in great numbers, but that is not what I had in mind. The Soviet delegation could certainly ask the representative of the United Kingdom or of France - if the French delegation too has copies - for a copy of the Compact, or we could get one by post, but that is not the point. The point is that the Trusteeship Council, the United Nations organ responsible for questions relating to Micronesia, which meets here every year to examine the situation in the Trust Territory on an ongoing basis, does not have the document.

As for a desire to participate in the negotiations, the representative of the United States exaggerates the situation. It might not have been a bad thing though for the Trusteeship Council to have participated in those negotiations from the beginning. That would at least have made it possible for the people of Micronesia not to feel that they were alone and isolated behind closed doors. Perhaps the Trusteeship Council could have made a contribution to that process in the interests of the Micronesian people. At this advanced stage, however, the Trusteeship Council still does not have these documents. The United States, I repeat, is still not making available to the Council the documentation it should in connection with its responsibility to report to the Council on the situation in the Trust Territory that it is administering.

I therefore repeat my question. When will the Trusteeship Council, the United Nations organ which deals with questions relating to the Trust Territory of the Pacific Islands, be able to get this document from the United States? If we cannot get an answer to this question, I shall go on to something else, but I should be happy if we could have an answer.

Mr. FELDMAN (United States of America): I thought I had answered it, but I shall answer it again. The answer is: when the Compacts of Free Association with any of the Micronesian States have received the necessary internal approvals, they shall be submitted to the Trusteeship Council. Until that time they do not have standing as legal documents. We have discussed - and, I think, discussed rather freely - the terms that they contain with regard, for example, to section 177 on claims. It will be recalled that there was a very lengthy discussion. But I assure the representative of the Soviet Union, the Council and you, Mr. President, that once the Compact approval process has been completed and these documents have full standing, we shall formally present them to the Trusteeship Council. In the meantime, we note that they are available informally.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): The Soviet delegation is forced once again to note that the Administering Authority is giving the Trusteeship Council the role of an organ which is supposed to rubber-stamp the measures taken in the Territory by the Administering Authority instead of trying to determine what is happening there. That conflicts with both the Charter of the United Nations and the Trusteeship Agreement; it also conflicts with many other United Nations decisions on decolonization questions, including the Declaration on the Granting of Independence to Colonial Countries and Peoples.

In statements made here, including those made today, the representative of the United States, referring to the authorities in various parts of the Territory, has said repeatedly that individual parts of Micronesia have created, adopted and ratified their own Constitutions. My question is very simple: does the United States have respect for those Constitutions?

Mr. FELDMAN (United States of America): Before I answer that question I should like, with the Council's indulgence, to comment one more time on the statement to the effect that the United States, because it has not formally given these Compacts to the Council, keeps the Council in the dark as to the actual conditions in Micronesia, thereby making it impossible for the Council to exercise its oversight responsibilities.

The representative of the Union of Soviet Socialist Republics has himself already conceded that the Compacts in fact are available; that he himself has a copy, obtained informally rather than provided formally. By his own terms - and entirely aside from the fact that, after all, the report can hardly be said to be a

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small volume - it is a volume replete with statistics of every kind. But put that to one side. Even if one were to accept the contention that one cannot form any judgements on the basis of these compendious reports in the absence of having the Compact, the fact is he does have the Compact.

With reference to the question - Do we respect the Constitutions of the Micronesian States? - the answer is: Yes, we do.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): I should like the answer of the representative of the United States to my question about the Constitutions of various parts of Micronesia to be emphasized in the records of the meeting.

My next question is closely linked to the preceding one. If the Constitution and its provisions are being respected by the Administering Authority, what has happened and continues to happen with regard to Palau? Why is it that in that case such gigantic efforts are being made by the United States to change the provisions of the Constitution? Tremendous efforts are now being made to change the Constitution or at least to circumvent it. How can we make any sense out of these discrepancies between what the representative of the Administering Authority is saying now and the real facts. That was the thrust of our previous question concerning the Compact.

So far as "the Compact" is concerned, perhaps I should say it in English. Personally, I, Mr. Berezovsky, am not interested in getting that document. I said that because, personally, I could get it: I could ask the representative of the United Kingdom, who has several copies in several languages, for a copy. I am talking about something else, and that should be clear. I am speaking about the role of the Trusteeship Council and the position which is being prepared for this United Nations organ by the United States. That is what I am talking about, irrespective of whether I happen to have a copy of the Compact or not.

Incidentally, that thick volume is not the Compact; it is the report of the Administering Authority on the situation in the Territories in which - I have not counted - I think the Compact is mentioned at least a thousand times.

Mr. FELDMAN (United States of America): I thought I had specified that this is the report, not the Compact. I thought I had further specified that it is replete with statistics on every imaginable subject and, therefore, the contention that we were hiding significant data from the Council was - laughable? - certainly an error.

(Mr. Feldman, United States)

To the question, do we respect the Constitution of Palau? Before calling on representatives of Palau to comment, I should like to say that in fact we do respect the Constitution of Palau in all its parts. With specific reference to those parts dealing with nuclear and other hazardous substances, we fully respect the Constitution of Palau and have not in any way acted in contravention of those aspects of the Constitution.

(Mr. Feldman, United States)

As to whether the Constitution of Palau will be changed, that is up to the people of Palau and not the United States. They will change it when it suits them. The United States cannot and will not change it.

Mr. President, I should like the representative of Palau to give a further answer as to whether or not the United States respects the Constitution of Palau.

Mr. UHERBELAU (Special Adviser): I have nothing to add to what we said this morning except that we consider, and rightly so, that the Constitution of the Republic of Palau is the supreme law of the land. I took up the Council's time this morning to explain that the drafters of that document were keenly aware of the potential for conflict between provisions of the Compact of Free Association then being negotiated and the Constitution. I and my Vice-President here were also delegates to the constitutional convention and we put an extraordinary reconciliatory amendment procedure into the Constitution, as a means to resort to in order to resolve any conflict between provisions of the Compact and the Constitution. I also mentioned in our statement this morning that at the present time the Republic of Palau does not - I repeat, does not - intend to have recourse to that provision. That is all I have to say.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): I should like to ask the Micronesian Special Adviser of the United States delegation a question about the last part of his statement. I did not quite understand what he meant when he said that they did not intend to have recourse to this provision. What provision was he talking about - a provision of the Constitution or, of the Compact? I did not quite understand, although I listened to him in English.

Mr. UHERBELAU (Special Adviser): My delegation is only acting in an advisory capacity to the Administering Authority and I do not wish to get into too much of a debate with the representative of the Soviet Union. He is asking for clarification, and I will attempt to answer his inquiry. I stated this morning in connection with the Constitution of the Republic of Palau being characterized as "nuclear-free" that, if any agreement negotiated between Palau and the United States - and in this instance there is the Compact of Free Association between Palau and the United States - contained any provision that would permit the introduction of nuclear, biological or other such substances into the Republic and if that Agreement were approved by 75 per cent of the voters, the nuclear

(Mr. Uherbelau, Special Adviser)

substances would be permitted to enter the jurisdiction of Palau and the Constitution would no longer be "nuclear-free".

Section 411 (b) of the Compact of Free Association between Palau and the United States requires that that Compact be approved by 75 per cent. Our Constitution provides that any treaty that does not contain any provision that would allow nuclear or biological substances to be introduced into Palau can be approved by a simple majority. The 23 May 1983 version of the Compact between Palau and the United States does not - I repeat, does not - contain provisions concerning nuclear substances. However, by its own terms, in section 411 (b), it requires 75 per cent of the votes for approval. There is an apparent conflict between that 75 per cent provision in the Compact and our simple majority provision in the Constitution. One way of reconciling this conflict so as to obtain the votes required to approve this document, is to amend the Constitution in such a way as to remove the 75 per cent vote provision therein. But at the present time, as I said earlier, the Republic of Palau does not intend to amend its own Constitution to remove the 75 per cent provision so as to conform with the 75 per cent provision under section 411 (b) of the Compact.

Mr. FELDMAN (United States of America): To come back to the first question that was asked, which started off this chain of question and answer - "Does the United States respect the Constitution of Palau?" - I want to say again, to make matters perfectly clear, first, that of course we do and, secondly, that as has been said, the amendment of the Constitution is up to the people of Palau and, as we have just heard, they have no plans to amend it. I think the implication ought to be quite clear. Far from attempting to impose anything on the people of Palau, the United States has scrupulously left these choices to the people of Palau themselves, and the people of Palau have decided that they have no present plans to amend the Constitution - and of course we, for our part, have no intention of forcing them to do so.

Mr. ROCHER (France) (interpretation from French): Following on the question by the representative of the Soviet Union concerning respect by the United States for the Constitutions of the entities of the Trust Territory, and also in connection with the statement made by a petitioner, the question I wish to ask concerns negotiations on the Compact of Free Association. Is there not a danger that these negotiations might lead to antagonisms or divisions within Micronesia?

Mr. FELDMAN (United States of America): I should like High Commissioner McCoy to respond to this.

Mrs. McCOY (Special Representative): A statement such as that which we heard from one of the petitioners can only be characterized as unfounded. It is my very strong feeling that only the Micronesians can respond to this comment, and I should be grateful if you would invite them to do so, Mr. President. However, I can state categorically and without reservation that the use of the word "antagonisms" is totally out of line with the Micronesian character, as anyone who has the remotest familiarity with them must agree.



Ms. TENORIO (Special Adviser): We have had many opportunities to review the Compact and have had quite a bit of discussion with the delegates from the other Territories, and the Commonwealth Government has come out unanimously in support of the Compact. There is no problem that I can think of. We wish them well and we congratulate them on these magnificent documents.

Mr. MARELAU (Special Adviser): Speaking for the Federated States of Micronesia, we have continued to work closely with our brothers throughout the Trust Territory on a wide range of common issues.

Mr. GUNASEKERA (Special Adviser): We are not aware of any antagonistic feelings among the Micronesians due to the Compact of Free Association negotiations. In fact, we were very pleased to hear the comments of representatives from other entities of Micronesia to the effect that they fully supported the Compact of Free Association negotiations.

Mr. UHERBELAU (Special Adviser): The Compact of Free Association for the Federated States of Micronesia and the Marshall Islands is indeed before the United States Congress. If Palau had approved the Compact in time, it would have applied to it as well. We had some internal problems subsequent to the 10 February 1983 plebiscite on the Compact, and our Compact was therefore separated from that of the Federated States of Micronesia and the Marshall Islands. As a matter of fact, it was the same document, except that references to Palau in the Compact for the Federated States of Micronesia and the Marshall Islands were deleted. For the past 13 years we have been negotiating side by side, that is, Palau, the Marshall Islands and the Federated States of Micronesia, on the one side, with the United States on the other, on the basis of free association.

When this trusteeship is terminated and our Compacts of Free Association come into effect, we shall know whether there is any resulting antagonism among ourselves. After all, we are pursuing the same status arrangement.

Mr. FELDMAN (United States of America): I am now prepared to answer the question asked this morning by, I believe, the representative of the United Kingdom as to the meaning of the exclusion of Northern Marianas from the United States 200-mile exclusive economic zone.

The caveat that was contained in the Presidential proclamation of the 200-mile exclusive economic zone - that is, the statement that the proclamation applied to the Commonwealth of the Northern Marianas only "to the extent consistent with the covenant and the United Nations Trusteeship Agreement" - was included as a general recognition of the fact that under the Trusteeship Agreement the United States does

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not and cannot claim sovereignty over this area. Nevertheless, some specific mention of the Northern Marianas seemed necessary because it is to be, once the trusteeship is dissolved, in a closer relationship with the United States.

At the present time, there is no specific conflict between legislation in relation to the 200-mile zone and the Trusteeship Agreement, since the legislation establishes a regulatory régime which is fully consistent with article 3 of the Trusteeship Agreement; but the caveat stated by the President was intended to confirm that, should any regulation be contemplated in the future which might conflict with the Trusteeship Agreement as it applies to the Northern Marianas, the trusteeship arrangement would have priority. In other words, we were being quite careful, despite the fact that the Northern Marianas will, upon dissolution of the trust, be in a much closer relationship with the United States. We wanted to give rise to no suspicion that we were now, before the termination of the trust had taken place, going to treat the waters around the Northern Mariana Islands as though they were within the exclusive economic zone or were in any way a territorial sea of the United States. That was the reason for the caveat.

The PRESIDENT: I should be quite happy to conclude the meeting fairly soon, but I do not want to deny anybody the chance of asking questions, certainly any questions arising out of what has been discussed so far this afternoon.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): The Soviet delegation would have no problem with that. We have a lot of questions, but we are in your hands, Sir, and are prepared to continue either tomorrow or any other day that is convenient for you and the representative of the Administering Authority.

The PRESIDENT: It was my intention to complete the questioning of the Administering Authority during the course of tomorrow's two meetings. If the representative of the Soviet Union thinks that there is any doubt about our ability to do that, I would rather continue a little longer this afternoon.

Mr. BEREZOVSKY (Union of Soviet Socialist Republics) (interpretation from Russian): Mr. President, you are asking the Soviet delegation to buy a pig in a poke. We simply do not know how many questions we or other delegations might have or how long the answers of the Administering Authority will take. I do not think we can commit ourselves to finishing tomorrow. We agreed from the start that we would be very flexible in our approach to procedure and if it is necessary to ask any additional questions after tomorrow there should not be any real problem.

The PRESIDENT: Does the representative of the United States have any particular wishes in this matter?

Mr. FELDMAN (United States of America): Many of us have responsibilities in addition to the Trusteeship Council. I would prefer to adjourn now and continue tomorrow.

The PRESIDENT: In that case, we shall adjourn very shortly.

#### ORGANIZATION OF WORK

The PRESIDENT: As has been agreed, we shall continue tomorrow morning with the questioning of the Administering Authority. At our meeting tomorrow afternoon, the representative of the Department of Public Information of the Secretariat will introduce the report of the Secretary-General on the dissemination of information on the United Nations (T/1873), which has already been distributed to all members.

Members of the Council will recall that our original list of petitioners included Mr. Roger Clark, who asked to appear on behalf of the International League for Human Rights (T/PET.10/335). That request was granted by the then President before our session began, but I remember informing members of the Council that Mr. Clark would not be able to appear during the hearing of the other petitioners last week. Mr. Clark is now prepared to speak at our meeting tomorrow afternoon and I propose to allow him to do so. He will be so informed.

After hearing those two statements we shall continue the questioning of the Administering Authority, and, as I have said, I hope that it will be possible for us to follow our programme and complete that questioning by the conclusion of our meeting tomorrow afternoon. We shall then be able to proceed to the general debate on Thursday morning. However, like the representative of the Soviet Union, I am flexible.

I have to inform members that I have today received a letter from Ms. Hope Cristobal of the Organization of People for Indigenous Rights requesting a hearing for representatives of an indigeous island group known as the Old People's Square Level and Justice Organization of Ponape and Kosrae, who wish to speak about war reparations. Unfortunately, Ms. Cristobal states that the petitioners will require two weeks' prior notice to be able to make preparations and arrive in New York to appear before the Council. As members are aware, except for Mr. Roger Clark, all the petitioners have already been heard, and according to the

(The President)

Council's timetable the Drafting Committee will begin preparation of its recommendations and conclusions on Wednesday, 29 May. I assume that the Council would be reluctant to refuse outright to give a hearing to the people about whom Ms. Cristobal has written. At the same time, if they are to appear, they must do so before the Council concludes its session. I propose, therefore, to reply that if these people can appear before the Council on or before 28 May, they may come, but, if not, it will not be possible for the Council to hear them. If I hear no objection, it will be so decided.

It was so decided.

The PRESIDENT: I understand that the Secretariat has distributed documents relating to certain items on our agenda, as follows: first, with reference to items 9 and 10, relating, respectively, to co-operation with the Committee on the Elimination of Racial Discrimination and the Second Decade to Combat Racism and Racial Discrimination, documents A/39/18, A/RES/39/16 and A/RES/39/21, as well as four communications received by the Secretariat on those two items; and secondly, with regard to items 11 and 12, dealing, respectively, with the attainment of self-government and co-operation with the Special Committee of 24, General Assembly resolution 39/91.

I hope that members of the Council will be able to study those documents and be in a position to discuss them when the items come before the Council during the next few days.

The meeting rose at 5.05 p.m.