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VERBATIM RECORD OF THE SIXTEEN HUNDRED AND SEVENTY-FIFTH MEETING

Held at Headquarters, New York,
on Monday, 21 May 1990, at 3 p.m.

President: Mrs. GAZEAU-SECRET (France)

- Examination of petitions
- Organization of work

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The meeting was called to order at 3.15 p.m.

EXAMINATION OF PETITIONS (T/INF/38)

The PRESIDENT (interpretation from French): As agreed at our meeting this morning, we shall now begin hearing petitioners whose requests for hearings are contained in documents T/PET.10/744 to 748. Today the Council will hear the following petitioners: Mr. Roger S. Clark, Vice-President of the International League for Human Rights; Mrs. Cita Morei, Otil A Beluad; Mr. Joseph Inos, President of the Commonwealth Senate of the Northern Mariana Islands; Mr. Pedro R. Guerrero, Speaker of the Commonwealth Senate of the Northern Mariana Islands; Mr. Larry L. Hillblom, Chairman of the Northern Mariana Islands Task Force on the Termination of the Trusteeship; and Mr. Rick Sammon, President of the Conservation Education Diving Archeology Museums International (CEDAM International). As regards Mr. Glenn Alcalay, National Committee for Radiation Victims, whose request for hearing appears in document T/PET.10/745, I understand that he is not present here today and wishes to speak at an appropriate future meeting.

I invite the petitioners to take their places at the petitioners' table.

At the invitation of the President, Mr. Roger S. Clark, Mrs. Cita Morei, Mr. Joseph Inos, Mr. Pedro R. Guerrero, Mr. Larry L. Hillblom and Mr. Rick Sammon took places at the petitioners' table.

The PRESIDENT (interpretation from French): I call first on Mr. Roger S. Clark, Vice-President of the International League for Human Rights, whose request for a hearing appears in document T/PET.10/744.

Mr. CLARK: As usual, I appreciate this opportunity to appear before the Council on behalf of the International League for Human Rights, a non-governmental organization in consultative status with the Economic and Social Council.

(Mr. Clark)

I should like on this occasion to draw the Council's attention to four publications concerning the Trust Territory that have appeared since the Council's last meeting: a report by the United States General Accounting Office referred to this morning and entitled "Issues Associated with Palau's Transition to Self-Government;" a book on Palau's struggle for self-determination by Bob Aldridge and Ched Myers; a law review article by Professor Harry G. Prince entitled, "The United States, the United Nations and Micronesia: Questions of Procedure, Substance and Faith"; and an article, "United States Still Considering Nuclear Testing Here", which appeared recently in the Marshall Islands Journal. Each of those works addresses in a serious way many of the issues that have been raised in recent years in this Chamber.

The report of the General Accounting Office was written at the request of three members of the Committee on Interior and Insular Affairs of the United States House of Representatives. The report deals with a review of United States agencies' oversight and assistance to Palau and with issues related to Palau's financial management, law enforcement, the IPSECO power plant and conduct of the referendums on the Compact. A supplement to the report contains more detailed information on some of the issues, notably, dubious contracts entered into by the Government of Palau for infrastructure and services, law-enforcement difficulties in the Republic, issues concerning the approval process for the Compact and matters concerning United States military use and operating rights in Palau.

I particularly commend to the Council's attention those parts of the report dealing with the illegal efforts to alter the Palau Constitution in 1987 and the sickening material concerning the bribes paid to high officials of Palau and the Marshall Islands in connection with IPSECO's activities. Those discussions confirm in some detail what several petitioners have stated concerning these matters in previous years.

(Mr. Clark)

I turn to the book by Aldridge and Myers. This year, 1990, marks the thirtieth anniversary of the General Assembly's Declaration on the Granting of Independence to Colonial Countries and Peoples. General Assembly resolution 35/118, the Plan of Action for the Full Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted a decade ago, takes the position that:

"Member States shall oppose all military activities and arrangements by colonial and occupying Powers in the Territories under colonial and racist domination, as such activities and arrangements constitute an obstacle to the full implementation of the Declaration, and shall intensify their efforts with a view to securing the immediate and unconditional withdrawal from colonial Territories of military bases and installations of colonial Powers." (General Assembly resolution 35/118, annex, para. 9)

Resisting the Serpent, the book by Aldridge and Myers, asserts strongly the point of view that obtaining self-determination is closely related to escaping the military net of the former colonial Power. The authors retell a traditional Palauan legend on the escape from the sea-serpent, with the serpent representing the scourge of militarism. Aldridge and Myers note the perspective of Pacific Islanders on the issue, as recorded in the 1978 "Peoples' Treaty for a Nuclear-Free and Independent Pacific", which asserted that the struggles for demilitarization and self-determination are inseparable. They say that:

"The story of Palau clearly speaks to this perspective, which, in our opinion, has a great deal to teach concerned first-world citizens about how to understand and challenge the grave problems of militarism."

They continue to say that:

"At issue is the very heart of what we presume to call western civilization, in its struggle to recover its humanity from the grasp of the serpent."

(Mr. Clark)

The results of the most recent referendum in Palau this February suggest once again that there are a significant number of voters in Palau who see the world in this light. I therefore commend the Aldridge and Myers book to those who would try to understand those opposed to the pervasive military aspects of the Compact. As I have suggested here before, if Palau does not want nuclear material or the use of its land for military purposes - whether contingent or actual military purposes - the United Nations Charter and general international law give it that right. Neither the Charter nor the Trusteeship Agreement binds the Palauans in permanent servitude to some view of security as seen by the Administering Authority.

The Prince article in the Michigan Journal of International Law is a tour de force on the legal aspects of the Compacts of Free Association and the Covenant with the Northern Mariana Islands. Professor Prince discusses the need for Security Council participation in the termination process, questions involving the fragmentation of the Territory, the propriety of the arrangements for the future of the Territory when judged against United Nations standards, questions of nuclear reparations in the Marshall Islands and issues of economic, social and educational conditions judged in light of the trusteeship obligations.

(Mr. Clark)

Professor Prince does not always reach as firm a conclusion on some of the issues as I would like, but his analysis is very fair and exhaustive. I hope that members of the Council will see fit to read his article with great care. It is a timely reminder of something the Administering Authority would cheerfully have us forget: the Trusteeship Agreement continues to govern its stewardship of all four parts of the Territory, and this Council's obligation to exercise its supervisory authority is equally wide.

This leads me to the final story in the Marshall Islands Journal earlier this month. That article makes the remarkable assertion that most of the United States Department of Energy's activities in the Marshall Islands are part of a United States programme to maintain the capability to resume atmospheric nuclear testing. The information for the article is based on a 1982 Department of Energy memorandum that was publicly released for the first time at a Congressional hearing in Washington early in May. The 1982 memorandum was addressed to the issue of transferring all Department of Energy Marshall Islands medical and radiological programmes from the Department's Office of Environmental Protection to the Office of Defence Programmes.

One of a number of understandings arrived at when the United States Senate was ratifying the Partial Test Ban Treaty in 1963 was that the United States would establish and maintain standby facilities for the resumption of atmospheric nuclear testing - presumably in the event of breach of the Treaty by other parties. This is the first time I have heard, however, that the standby would take place in the Msrshalls. Indeed, in light of the Compact of Free Association's promise by the United States not to "test by detonation or dispose of any nuclear weapon", it is hard to understand why the United States Government would have contingency plans to do just that in the Territory. Indeed, given the history of the nuclear-testing issue, I should have thought that the voters who approved the Compact in the

(Mr. Clark)

Marshall Islands did so on the plain understanding that no such events were even remotely contemplated. Are there some secret understandings that do not appear on the public record? I have no inside knowledge of the matter beyond what appears in the Journal article, but I would respectfully suggest that it calls for a careful investigation by this Council.

The PRESIDENT (interpretation from French): I now call on Mrs. Morei, of Otil a Beluad, whose request for a hearing appears in document T/PET.10/746.

Mrs. MOREI: We would like to thank you, Madam President, and the members of the Trusteeship Council for the opportunity to speak here today. My name is Cita Morei, and with me is Isabella Sumang. We represent Otil a Beluad, a group of Palauan citizens concerned about the future of Palau.

We are very thankful that over 40 years ago the United States and the United Nations stepped into protect Palau from Japanese colonization. Older Palauans talk about Japan's presence in Palau and recognize that the people of Palau were unimportant to the Japanese. They say, "When the Japanese were here, they pushed us to live in the mangrove swamps." That is not true any more because the United States brought democracy to Palau, and now Palauans have voted democratically to determine our future.

We followed a democratic path to create and approve Palau's Constitution. After over 100 years of Spanish, German, Japanese, and then American administrations, defining who we are as a sovereign country and what "Palau" means at this point in time became an exciting process. Palau's Constitution reflects our unique culture and our people's commitment to maintaining control of our islands and keeping those islands clean for generations to come.

We have gone to the polls several times in the past seven years to vote on various versions of the proposed Compact of Free Association. At times we have voted on the same document more than once. With each vote the Compact has failed to

(Mrs. Morei)

gain the 75 per cent approval required by Palau's Constitution. In the most recent vote, less than 60 per cent approved the Compact - fewer Palauans than ever before. This result shows that as Palauans become more informed about the actual provisions of the Compact, the more they oppose it.

Members of Otil a Beluad have actively worked against the ratification of the proposed Compact between Palau and the United States. We believe the Compact does not represent the best interests of the Palauan people. The Compact obstructs the process of returning land to rightful owners, threatens our environment with nuclear accidents, and presents the strong possibility of sacrificing our small islands to United States military plans.

We recognize that we are a very small island nation, and we as a people are very concerned about the development of our country, our economy and our welfare. We welcome development. However, we value the kind of development that does not threaten our environment or destroy our means of livelihood - development that serves as a basis for a sound economy in a stable society.

Palau is our island. We want our nation to grow and develop on its own terms, in ways we Palauans decide are in our best interests. We recognize that we will need assistance from the United Nations and from other countries. We welcome appropriate assistance, but we do not want Palau to become a casualty of expanding militarization and unbridled growth of international business ventures.

We have seen the destructive effects of inappropriate development in other places, and we do not want our country to be damaged as other countries have been. Many of the features of Palau that are most valuable to us - the beautiful water, reefs and marine life, the clear air, the peace and quiet are valued by many in the international community. In 1989 Palau was named the number one undersea wonder of the world.

(Mrs. Morei)

People, organizations and Governments all over the world are realizing that plans for sustainable development are imperative in preserving the resources of complex and delicate ecosystems. There is also a growing realization, as expressed in the nuclear-free and independent Pacific movement, among others, that nuclear weapons not only threaten ultimate destruction but have created serious problems in people's lives today. We in Palau want to be a part of these efforts and to protect ourselves from those who fail to see how fragile our islands really are.

We are proposing a moratorium on Compact-related votes in the next few years. Over 600 Palauan voters have already petitioned members of the Palau national legislature. Copies of that petition in Palauan and English are attached to our petition.

We need relief from the constant voting on the Compact. We need time to educate ourselves on various future-status options that include independence, free association with the United States without nuclear provisions and militarization, and other concepts related to self-reliance. We need time to complete the process of returning public lands to their rightful owners, as mandated by our Constitution. We need time to re-establish the peace and unity among ourselves that has been shattered in this time of repeated and pressured voting on the Compact.

(Mrs. Morei)

We are asking the Trusteeship Council to support this moratorium and to play a more active role in supporting Palau's efforts to create its own path towards self-reliance and self-government by, first, urging the Administering Authority to respect our desire for a Compact moratorium; secondly, providing information to the the Government and citizens of Palau about our status options; and, thirdly, working with other United Nations branches and international agencies to make information and technology for appropriate and sustainable development available to Palau.

The PRESIDENT (interpretation from French): I now call on Mr. Joseph Inos, President of the Commonwealth Senate of the Northern Mariana Islands, whose request for hearing appears in document T/PET.10/747.

Mr. INOS: On behalf of the people of the Northern Marianas I wish to extend our congratulations to Mrs. Gazeau-Secret on her assumption of the presidency of this body. Similarly, we wish to express our appreciation of the special attention and assistance given our people over past years.

My name is Joseph S. Inos. I am the President of the Senate for the Seventh Northern Marianas Commonwealth Legislature. Accompanying me is the Honourable Pedro R. Guerrero, Senator from the Northern Marianas and a member of the 902 consultation talks between the Northern Marianas and the United States. I thank the Council for the opportunity afforded us to speak here this afternoon.

We have always taken the position that the Administering Authority cannot unilaterally terminate the Trusteeship Agreement. Only the Security Council of the United Nations has the power and the right to end the trusteeship relationship between the Administering Authority and the people of the formerly Japanese-mandated islands.

We come before the Trusteeship Council to ask that the Trusteeship Agreement not be prematurely terminated as it relates to the Northern Mariana Islands.

(Mr. Inos)

On 3 November 1986, the President of the United States of America by proclamation executed the final provisions of the Covenant. But that unilateral action did not terminate the Trusteeship Agreement between the United Nations and the Administering Authority. As we hope to make clear here this afternoon, we have a fundamental disagreement with the United States as to our rights under international law, rights which are protected by this body and by the Security Council. You will be hearing our speakers who will eloquently present perhaps our most pressing problems of self-government. Although that may be a fundamental issue that must be resolved, we have other concerns which I should like to address and share with the Council at this time.

The Northern Mariana Islands, by enactment of a local law of its duly elected legislature, claims the right to control, manage and develop the marine resources of its exclusive economic zone. This law was enacted pursuant to our own constitutional authority. That law, Public Law 2-1, retains for the Commonwealth the full complement of rights in the ocean and the exclusive economic zone recognized for coastal States under the United Nations Convention on the Law of the Sea. The Administering Authority contemptuously ignored that local law.

The Administering Authority has continued to force its unfounded assumption under the guise of foreign affairs and sovereignty over the Northern Mariana Islands and has taken the position that the territorial sea and exclusive economic zone surrounding the Northern Mariana Islands is subject to United States federal jurisdiction and should be treated in much the same way as the territorial seas bordering a State. This failure by the United States to protect our people from the loss of their natural resources is a flagrant violation of the Trusteeship Agreement by the Administering Authority.

Several years ago, prior to the enactment of United States Public Law 94-241, a covenant to establish a commonwealth of the Northern Mariana Islands in political

(Mr. Inos)

union with the United States of America, we appeared before this body as representatives and advisers of the Administering Authority. In eloquent and extremely persuasive fashion, we pleaded before this body for it to support the United States and our position that our decision to be a part of the United States was freely and democratically arrived at and that our people's vote in a plebiscite to be part of the United States was a solemn exercise in self-determination. We applauded the United States commitment to respect our rights as the newest citizens of the United States and to guarantee our people sovereignty over its internal affairs.

The latter commitment, however, has been reneged on, and even the United States judicial system has continued to aggravate our political status relationship by issuing judgements on political and covenant issues that threaten to undermine fundamental self-government as guaranteed by the United States and protected by the Trusteeship Agreement. Existing laws of the Administering Authority, specifically the Outer Continental Shelf Lands Act, do not apply to the Commonwealth of the Northern Mariana Islands. However, proposed legislation as contained in the National Seabed Hard Minerals Act of 1989 purports to extend United States federal jurisdiction over the sea that surrounds the Northern Mariana Islands.

This jurisdiction over the oceans, seabed and natural resources of the sea surrounding the Northern Mariana Islands was not given to the United States in the Covenant. The Covenant provided only for the conveyance of submerged lands, along with other real property of the Trust Territory of the Pacific Islands in the Northern Mariana Islands, to the Commonwealth Government.

Pursuant to the local Government authority reserved by the Commonwealth of the Northern Mariana Islands Constitution and section 103 of the Covenant, the Commonwealth of the Northern Mariana Islands has enacted a series of laws which

(Mr. Inos)

established the Commonwealth's jurisdiction over its 12-mile territorial sea and a 200-mile exclusive economic zone.

The Administering Authority law, which was enacted without the participation of the peoples of the Commonwealth, would establish for the first time United States federal jurisdiction over the seabed hard minerals beneath the exclusive economic zone surrounding the Northern Mariana Islands. This law would have the effect of divesting the Commonwealth and its people of existing rights over these resources - something that was not contemplated by the Covenant and certainly never given up by our people when they voted for the Covenant in 1975.

Early in its constitutional history the Commonwealth enacted a series of laws designated to affirm its rights in the oceans surrounding the Northern Mariana Islands and the marine resources in those waters. The Commonwealth's Submerged Lands Act and Marine Sovereignty Act set out the Commonwealth's ownership of the 12-mile territorial sea, jurisdiction over a 200-mile exclusive economic zone and submerged lands authority.

Our Marine Sovereignty Act establishes the Commonwealth's claim to archipelagic status under article 46 of the United Nations Convention on the Law of the Sea. Incidentally, the United States does not believe that the provisions of the Convention apply to the Commonwealth of the Northern Mariana Islands. We submit our total disagreement. Our Act also sets out our right to use the archipelagic baseline in defining its territorial sea and exclusive economic zone.

The Northern Mariana Islands shall publicize its baseline by depositing a copy of its baseline charts with the Secretary-General of the United Nations, as provided in article 47 of the Convention. We find it extremely necessary to deposit those baseline charts because, among other reasons, the United States persists in its federal claim to control, manage and develop our exclusive economic

(Mr. Inos)

zone. In particular, we draw the attention of the Trusteeship Council to United States Presidential Proclamation No. 5928 concerning extension of the territorial sea of the United States to the Commonwealth of the Northern Mariana Islands.

(Mr. Inos)

Further, the Territorial Sea Extension Act, with the stated purpose of ensuring orderly implementation to extend the territorial sea of the United States, causes us great alarm with regard to our claim to sovereignty over our own exclusive economic zone. We draw the Council's attention to the proposed National Sea-bed Hard Minerals Act, which establishes a federal policy for control, exploration and commercial recovery of mineral resources in our exclusive economic zone. This Bill would assert for the first time United States federal jurisdiction over the sea-bed hard minerals in our exclusive economic zone. The intent is to divest the Commonwealth of the Northern Mariana Islands and its people of existing rights in respect of those resources.

We heartily resist, and shall continue to resist, United States federal claims to our marine resources except for matters relating to national defence and foreign affairs.

The Commonwealth has initiated formal consultations pursuant to the Covenant with the Special Representative of the President of the United States to clarify the Commonwealth's authority in the exclusive economic zone.

On 12 April this year the Special Representative of the President of the United States agreed to support the Commonwealth's proposal that the authority and jurisdiction of the Commonwealth of the Northern Mariana Islands be recognized and confirmed by the United States to include the sovereign right to ownership of and jurisdiction over the waters and sea-bed surrounding the Northern Marianas to the full extent permitted under international law.

Under this proposal the Commonwealth will have rights as a coastal State in the territorial sea, the exclusive economic zone and the continental shelf, as provided in the United Nations Convention on the Law of the Sea.

(Mr. Inos)

Although the President's Special Representative has agreed to the Commonwealth's position, little if any support, or no support at all, has been given him by other agencies of the executive or the legislative branches of the United States.

I come to the matter of third-country assistance.

The Northern Marianas now pursues, through its section 902 negotiations with the United States President, a new United States State Department policy that would allow the Commonwealth to receive assistance from foreign Governments. We seek development grants from Governments such as that of Japan. Japanese business investors, because of the great number and magnitude of their projects, have overwhelmed our existing infrastructural facilities.

To date, however, the United States has refused to allow the Northern Marianas the right to receive development grants from foreign Governments. This refusal stands at odds with section 603(d) of our Covenant with the United States, which provides in part:

"The Government of the United States of America will encourage other countries to consider the Northern Mariana Islands a developing territory."

Shortly after the Northern Mariana Islands installed its first-ever constitutional Government in 1978, the United States Department of State adopted a policy regarding third-country assistance to Micronesia. The policy clearly provided that appropriate financial and technical assistance to the Northern Marianas would be permitted.

Despite that announced policy, and despite the fact that the Northern Marianas has regularly expressed its desire for approval of assistance with projects such as the desperately needed air traffic control tower at the Saipan international airport, no such third-country assistance has been approved by the United States

(Mr. Inos)

for the Northern Mariana Islands. During the same period, however, assistance from the Government of Japan to the Commonwealth's neighbours, the freely associated States of Micronesia, has exceeded $29 million.

In the light of the commitment by the United States in section 603 of the Covenant to encourage other countries to consider the Northern Marianas Islands a developing territory, there is little justification for this great discrepancy. The control tower project would be of mutual benefit to the Governments of Japan, the Northern Marianas and the United States - Japan benefiting because of the increased safety for the more than 400,000 Japanese citizens who travel by air to the Northern Marianas each year.

The Saipan international airport is believed to be the only airport within the jurisdiction of the United States where wide-bodied passenger aircraft arrive and depart without air traffic control assistance. Yet the United States Government has discouraged help with this and other similar assistance from third-country Governments.

In 1985 the Committee on Appropriations of the United States House of Representatives noted that the Japanese had offered to build a control tower at the airport, and the Committee urged that that option be pursued.

The Northern Marianas Islands asks the Trusteeship Council to urge the United States to reaffirm the eligibility of the Commonwealth to receive foreign Government development assistance from countries whose extensive business investment has impacted our underdeveloped infrastructure. We ask specifically that the Council urge the United States to allow the Japanese Government to assist the Northern Marianas Islands in implementing the control tower project.

(Mr. Inos)

I turn now to drift-net fishing. We and other Pacific island Governments have been nearly unanimous in condemning the abhorrent drift-net fishing practices of fishing fleets that deploy thousands of miles of nets in the Pacific, creating an enormous so-called wall of death that indiscriminately kills fish and other marine life. About four years ago the American-flag Pacific Islands took action through the Western Pacific Fishery Management Council banning the use of this gear in our exclusive economic zones.

Unfortunately, progress in ending drift-netting in the north Pacific has not been as rapid as we should like. The United States Federal Government has proposed legislation that would ban such fishing. However, such proposals have not become law, and little if any pressure is being applied by the Administering Authority to those Asian countries using this type of fishing to cease such operations.

We ask the United Nations to urge the world's nations to outlaw the sale and manufacture of the nets used in this fishing and to support the Commonwealth of the Northern Mariana Islands in its efforts to prohibit such fishing in the Pacific area.

My next topic is international agreements. Section 904 of the Covenant requires that the United States consult with and give sympathetic consideration to the Commonwealth's interest in international agreements. This is not being followed. I give the following examples.

The United States recently entered into a trade agreement with Canada. The agreement excludes the Commonwealth of the Northern Mariana Islands from the benefits of this important market. No effort at consultation was made by the United States with the Commonwealth before or after the agreement was entered into.

(Mr. Inos)

In the Pacific Fisheries Agreement, the United States has deliberately excluded the fisheries of the Northern Mariana Islands as the only unregulated and unprotected fisheries within the purview of the United States. We see these omissions, and others, by the United States as a clear indication that it is not in good faith adhering to the provisions of the Covenant.

Next I come to section 902 consultations. The Northern Mariana Islands first requested consultations in May 1985. The United States did not appoint a representative until a year later, at which time an employee of the Department of the Interior was designated as the United States President's Special Representative. Only three rounds of discussions took place, with no meaningful results, before that Representative resigned.

It was another year before a second Representative was appointed. The discussions resumed, with several meetings between August 1988 and May 1989. Then the second Representative resigned. This foot-dragging was made the subject of a hearing before the United States House of Representatives Sub-Committee on Insular and International Affairs in May 1989. Yet it was not until February this year that a third "interim" Representative was appointed - again a Department of the Interior employee.

In fact, the United States has taken the position that Covenant section 902 is only an agreement to talk, and does not create a forum within which to resolve disputes between the Commonwealth of the Northern Mariana Islands and the United States. This is the stated position of the United States at the eighth round of consultations between the President's Interim Representative and the Governor's representatives of the Commonwealth of the Northern Mariana Islands.

(Mr. Inos)

It is abundantly clear at this point that the United States has no desire to consult in good faith under Covenant section 902. The longer this unproductive exercise continues, the more strained becomes the political relationship between our Government and the Government of the United States.

It is time for this body to recognize and fulfil its fiduciary obligation to the people of the Northern Mariana Islands. Section 902 may no longer be used by the United States to shield it from its commitments to the United Nations under the Trusteeship Agreement.

I come now to the Trusteeship Agreement.

I am particularly concerned with the United States Justice Department's position in a recent lawsuit, United States of America v. Sablan, in which the United States takes the position that the Northern Mariana Islands is no more than a territory under the complete domination and complete authority of the United States and subject to the plenary legislative authority of the United States Congress.

Not only is the United States Department of Justice taking the position as outlined in its legal brief but also the Special Representative of the President, as recently as 12 April 1990, formally presented that position as the official position of the United States President. Under that construction of the Covenant, adopted and presented by the United States before its courts and to the Commonwealth through the section 902 process, the Commonwealth of the Northern Mariana Islands is a mere territory of the United States, fully subject to the laws of the United States, without benefit of representation in the United States Government or the right to vote for the President of the United States of America.

The Commonwealth of the Northern Mariana Islands is not a territory; it is not a property belonging to the United States. The relations between the Commonwealth and the United States are governed exclusively by the Covenant. This relationship

(Mr. Inos)

is different from the relationship between the Federal Government and the several States and all its territories, all its colonies, or all its possessions. It would defy all fairness and logic to allow the territorial clause to be used as a source of power independent of the Covenant. The Covenant did not evolve from the Constitution of the United States nor did it evolve from its federal laws. Rather, the Covenant is the end result of continuous, hard-working negotiations between the sovereign people of the Northern Mariana Islands and the United States, under the oversight of the world community and subject to international law.

Despite the fact that the territorial clause was deliberately excluded from the Covenant, the Administering Authority maintains that the territorial clause is applicable to the people of the Northern Mariana Islands. Its assertion necessarily blocks the termination of the trusteeship by the Security Council. The trusteeship cannot be terminated until the United States of America agrees to comply with the Covenant, Article 76 of the United Nations Charter and article 6 of the Trusteeship Agreement.

Article 83, paragraph 1, of the United Nations Charter requires that the Security Council approve termination of a strategic trusteeship agreement; thus any attempt at unilateral termination of such a trusteeship violates international law. The United States cannot avoid the requirement of Security Council consent through a unilateral declaration that purports to abrogate its obligations under the Trusteeship Agreement.

No termination of the trusteeship status of the Northern Mariana Islands can be recommended by this body, or approved by the Security Council, until such time as meaningful self-government for the people of those Islands is assured. Thus the Northern Mariana Islands opposes termination of its Trust Territory status until

(Mr. Inos)

such time as a clear understanding is reached, supported by a binding commitment on the part of the United States, that the Commonwealth's right to govern its internal affairs will be respected by the United States.

The Commonwealth clearly is not a sovereign State. It also is not fully integrated into the United States, since it does not have equal rights with the 50 States to participate in the executive, judicial and legislative branches of the United States Government. The Commonwealth also does not qualify as a freely associated State as contemplated by the United Nations, since it does not have the authority under the Covenant to disassociate itself from the sovereignty of the United States.

In addition, according to the United States the Covenant is not a binding agreement since the United States claims the right to alter or repudiate it at its own will. The Covenant does not grant the Commonwealth complete freedom in determining its own constitution and the United States claims plenary power to intervene in our own local affairs.

This body is thus without authority to recommend, and the Security Council is unable to grant, termination of the trusteeship as to the Northern Mariana Islands until such time as the obligations of the Covenant, General Assembly resolution 1514 (XV) and article 6 of the Trusteeship Agreement are respected and complied with by the United States.

The people of the Northern Mariana Islands respectfully request of this Council, first, that at such time as it may be appropriate to terminate the trusteeship the following language shall be included in any terminating resolution:

> "In terminating the 'Trusteeship Agreement for the formerly Japanese mandated Islands' the United Nations Security Council and Trusteeship Council specifically recognize that the people of the Commonwealth the granted sovereignty only over foreign affairs and defence.";

(Mr. Inos)

secondly, that the Trusteeship Council request an advisory opinion of the International Court of Justice regarding the effective termination of the strategic trust and whether the Covenant as interpreted and applied by the United States satisfies the United Nations guarantees of self-determination and independence or self-government; and, thirdly, that in the event that the Trusteeship Council is unable or unwilling to request such an advisory opinion from the International Court of Justice, the Trusteeship Council recommend to the Security Council that such a request be made.

On behalf of the people of the Northern Mariana Islands I thank the Council for the opportunity to make this statement.

The PRESIDENT (interpretation from French): I now call on Mr. Pedro Guerrero, Speaker of the Commonwealth Senate of the Northern Mariana Islands, whose request for hearing appears in T/PET.10/747.

Mr. GUERRERO: I am Pedro Guerrero. Our delegations from the Northern Mariana Islands congratulate you, Madam President, and Mr. Thomas Richardson on your election to the offices of President and Vice-President of the Trusteeship Council.

On behalf of the people of the Northern Mariana Islands and the members of the House of Representatives, I thank the Council for the opportunity to make this statement.

With me here today are Congressman William C. Ada, Congressman Diego Benavente, Congressman Thomas P. Villagomez, Legislative Counsel Ray E. Smith and Assistant Attorney-General Eric Smith.

(Mr. Guerrero)

We have returned to the Council in order to seek confirmation of our right to an equal standing with the other self-governing peoples of the world. We appear before the Council again supported by elected members of the executive and legislative branches and by members of the Trust Termination Task Force. This year, as in past years, our delegation is here as a demonstration of support for the fundamental right of our people to be self-governed and free from United States federal governmental interference in our local affairs.

(Mr. Guerrero)

Today we ask that an advisory opinion be sought of the International Court of Justice regarding the effective termination of the strategic Trust and regarding whether the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States, as interpreted and applied by the United States, satsifies United Nations guarantees of self-determination and self-government.

In the 1988 report "Self-Determination Realized" the Task Force asked for a strong statement by the United States, the Administering Authority, supporting its previous assertions that it rejects any desire for colonial rule in the Northern Mariana Islands. We asked for, and continue to ask for, a commitment from the United States that it will comply in good faith with all the provisions of the Covenant and all applicable provisions of international law. We believe that we have yet to receive that commitment.

In fact, since our last appearance before the Council, the United States has made it plain in lawsuits before its courts, and officially in Government-to-Government consultations, that despite the clear terms of the Covenant, article 6 of the Trusteeship Agreement and General Assembly resolution 1514 (XV), it will govern the Northern Mariana Islands as a colonial Territory. By its actions, the United States has sought to gut the essential self-government commitment of those agreements.

We have come such a long distance to appear before the Council because we firmly believe that the Trusteeship Council, as an overseeing body, has the obligation to examine whether our right to self-government, as confirmed by the Charter of the United Nations and the Trusteeship Agreement, has been encouraged, supported and respected by the United States. We ask this body to review the positions taken by the United States under the Covenant and to determine whether self-government has been retained by the people of the Commonwealth.

(Mr. Guerrero)

Twelve years after the Covenant was signed we have extensive evidence that the United States is not honouring its agreement with respect to the Northern Mariana Islands. We present the following examples, from which the Council can judge whether under a universal concept of self-government the Commonwealth has that sovereign right to govern itself or whether it has lost that right to the United States federal authority.

First, the United States asserts that the territorial clause of the United States Constitution applies to the Commonwealth. Despite the fact that that provision of the Constitution was deliberately excluded from the Covenant, the Administering Authority maintains that the territorial clause is applicable to the people of the Northern Mariana Islands. The territorial clause gives authority to the United States Congress to make laws, rules and regulations for the Administering Authority's Territories and possessions. The territorial clause gives plenary power to Congress to make all needful rules and regulations respecting the Territory or other property belonging to the United States.

The Northern Mariana Islands are not a "Territory or other property belonging to the United States", and it is only recently that such a position has been taken by the United States. The relationship between the Northern Mariana Islands and the United States is governed exclusively by the Covenant. That relationship is different from the relationship between the federal Government and the several States and all its Territories, colonies and possessions. It would defy all fairness and logic to allow the territorial clause to be used as a source of power, independent of the Covenant, through which the United States could nullify its Covenant obligation to respect the Commonwealth's right to govern its own internal affairs.

(Mr. Guerrero)

The fact that the territorial clause is not among the constitutional provisions included in the Covenant is consistent with the authority of the Commonwealth of the Northern Mariana Islands to govern its own internal affairs. Its deliberate exclusion is intended to ensure that the United States Congress does not use an independent plenary source of power to supersede the sovereign prerogatives of the people of the Northern Mariana Islands. The territorial clause is a vestige of colonialism which, if applied to the Northern Mariana Islands, would give the United States plenary colonial power over our people. Territorial status would render the guarantee of self-government meaningless. With the approval of the United Nations, the Northern Mariana Islands would become a "colony" of the United States in violation of international law.

The Covenant did not evolve from the United States Constitution, nor is it a federal law. Rather, the Covenant is the end result of negotiations between the sovereign people of the Northern Mariana Islands and the United States, under the oversight of the world community and subject to international law. The United States cannot and should not presume that a source of congressional power not found in the Covenant applies to the people of the Northern Mariana Islands.

Secondly, laws which directly and substantially affect the Commonwealth have been routinely adopted without prior consultations.

Thirdly, it is officially asserted that the Covenant is no more than a United States public law enacted by Congress and that Congress can unilaterally amend or repeal it at will.

Fourthly, the self-government provision of the Covenant is violated by the assertion of the right to control the expenditure of the Commonwealth and to audit all its revenues, including wholly local revenues.

(Mr. Guerrero)

The United States executive branch and federal courts have recently taken positions fundamentally at odds with self-government guarantees in the Covenant and with the Commonwealth's political status as protected by international law. Those positions place the United States in breach of international law and of the Covenant. The United States has officially taken the position that the Commonwealth's right to self-government is limited to the "right" to choose only the form of local government institutions pursuant to a local constitution. That is an unbelievable position for the bastion of democracy to take. Those of us who are actively involved in the democratic process find it difficult to understand how the United States can be furthering the ideals of democracy by limiting the concept of self-government to mean that once the structure of a local government is established, the federal Government will control all legislation.

The United States has stated this position in legal briefs filed by the Department of Justice in two lawsuits, and the position was formally confirmed by the personal representative of the President of the United States in the last round of consultations pursuant to Covenant section 902, in April of this year.

In the recent lawsuit United States of America vs. Sablan, the United States takes the position that the Northern Mariana Islands are no more than a Territory under the complete domination and authority of the United States and subject to the plenary legislative authority of the United States Congress. In that lawsuit the United States asserts four positions affecting self-government: first, that the guarantee of self-government is limited solely to the "right" to choose the form of the Commonwealth's local government structure; secondly, that the territorial clause of the United States Constitution applies to the Commonwealth, despite the fact that the Covenant does not make it applicable; thirdly, that, pursuant to the territorial clause, the United States has full legislative authority with regard to

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the Commonwealth and that the Covenant creates no preserve of independent sovereignty for the people of the Northern Mariana Islands; and fourthly, that the Covenant is no more than a law of the United States, which can be amended or repealed at will by the United States Congress.

Although the United States takes the untenable position that the right to self-government is limited to the "right" to choose only the form of local government structure, the federal Court of Appeals is apparently denying even this to the people of the Commonwealth. In its recent decision in the lawsuit Wabol vs. Villacrusis, a federal Court of Appeals held that the United States Congress, can by statute, unilaterally reduce or eliminate the legislative power of the Commonwealth legislature. The federal court says in effect that despite the Covenant, the United States can treat the Northern Mariana Islands as a Non-Self-Governing Territory subject to the plenary legislative power of the United States and that the Congress can pass legislation amending or nullifying any provision of the Covenant and the Commonwealth's Constitution.

(Mr. Guerrero)

The corner-stone on which the United States was built 200 years ago is the fundamental principle that self-government is rooted in the concept of representative democracy. The right to self-government means the right to vote for the legislators and executive officials who enact and enforce legislation affecting the lives of the people. The United States cannot now be permitted to accord a very small and relatively defenseless portion of its population a lesser right. Yet this is precisely what the United States proposes to do with the tiny population of the Northern Mariana Islands.

Fifthly, there is the problem of violating the spirit of the political relationship embodied in the Covenant by placing the Commonwealth for "administrative purposes" under the executive department responsible for territorial affairs, thus treating the Commonwealth within the federal system as a Non-Self-Governing Territory.

These problems and the bias against self-government which the United States courts have demonstrated in their interpretation of the Covenant have caused us to question the good faith of the United States and the legitimacy under international law of the way in which the United States treats the Commonwealth. The people of the islands believed that they were voting for full, effective and meaningful self-government when they voted for the Covenant. Whether true self-determination has been achieved is also called into question, and that is why we are asking this body to review the Covenant and the interpretations we and the United States give to its provisions. Our question to you is: what is the international community's definition of self-government, and, most important, what is your position?

Our negotiators bargained long and hard for terms in the Covenant. When the people of the Northern Mariana Islands voted to approve it, they did so with the assurance that they were voting for guaranteed self-government.

(Mr. Guerrero)

We have lost confidence in the Administering Authority's intention to comply with the provisions of the Covenant. We believe that the attempt by the United States to exercise complete legislative power to govern the internal affairs of the commonwealth violates its obligation under article 6 of the Trusteeship Agreement.

Only if the self-government provisions of section 103 of the Covenant are given their full and intended meaning, and only if the United States respects this guarantee, will the basic freedoms guaranteed to all peoples under international law be satisfied with regard to the people of the Northern Mariana Islands.

The PRESIDENT (interpretation from French): I now call on Mr. Larry L. Hillblom, Acting Chairman of the Northern Mariana Islands Task Force on the Termination of the Trusteeship, whose request for hearing appears in document T/PET.10/747.

Mr. HILLBLOM: I should like first to introduce the other members of the Task Force. Mr. Elias Okamura and Mr. Julian Calvo, former President of the House of Senate of the Northern Mariana Islands, and our Counsel, Peter Donnicio.

In 1987, 1988 and 1989, the Task Force on the Termination of the Trusteeship, a body created pursuant to the law of the Commonwealth, appeared before the Trusteeship Council. We were further mandated by a referendum passed by 75 per cent of the inhabitants of the Northern Marianas to support termination of the Trusteeship only when the Administering Authority complies with basic democratic principles found in General Assembly resolution 1514 (XV). Now, in 1990, the Task Force once again appears before the Council to express its continuing concern over the intentions and conduct of the Administering Authority. All indications demonstrate that, following the elimination of this body's oversight, the Administering Authority will ignore the basic provisions of the Covenant, most importantly section 103, which guarantees and preserves the right of self-government to the inhabitants of the Northern Marianas. This right of

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self-government, the authority to govern local and internal affairs, is the very essence of the Covenant and is the direct memorialization of the goals sought by Article 76 of the Charter of the United Nations and article 6 of the Trusteeship Agreement.

The Task Force believes that the Administering Authority has always intended to treat the Commonwealth as having the same colonial status as Puerto Rico, American Samoa, the Virgin Islands and Guam. It is ironic that the self-proclaimed champion of democracy and human rights would continue the colonial status of approximately 3.5 million Puerto Ricans, 100,000 Virgin Islanders, 40,000 American Samoans and 130,000 Guamanians. The Task Force fully recognizes that the Trusteeship Council has no authority to address the colonial status of those islands. However, the Council does have the authority and the obligation under the Charter and under the Trusteeship Agreement to ensure that the 25,000 inhabitants of the Northern Marianas are not added as a colony. Yet earlier pleas to the Council for protection have fallen on deaf ears. To our knowledge, not a single report to the Security Council even mentions the concerns continually expressed by this Task Force and other members of the Northern Marianas delegation.

President Inos and Speaker Guerrero have explained in their presentations, consistent with previous presentations before this Council, the method which the Administering Authority will use to exercise its authority should this colonial status be approved and emerge. In particular, it has been explained how the Administering Authority intends to use the territorial clause of the United States Constitution, which appears nowhere in the Covenant and is specifically excluded, to justify legislation affecting the local and internal matters of the Commonwealth. That clause allows for the enactment of legislation within the Northern Marianas by persons for whom no person in the Northern Marianas has a

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single vote at all. This position of the Administering Authority is contrary to the ideals of democracy and violates article 21 of the Universal Declaration of Human Rights, to which the Administering Authority is a signatory.

The Task Force is at a loss to understand how the Administering Authority can take one position on democratic ideals concerning Nicaragua, Eastern Europe, the Soviet Union and China, while taking a totally contrary position when dealing with the Northern Marianas. We think it only appropriate that the Council should call upon the Administering Authority to drop this double standard and view the Commonwealth in the democratic manner it has repeatedly championed before the United Nations regarding other nations.

Lastly, we concur in and adopt the request for relief made by Speaker Guerrero and President Inos, and we urge the Council to recognize it.

The PRESIDENT (interpretation from French): I now call on Mr. Rich Sammon, President of Conservation Education Diving Archaeological Museums International (CEDAM International), whose request for hearing appears in document T/PET.10/748.

Mr. SAMMON: CEDAM International is a 23-year-old not-for-profit organization dedicated to conservation, education, diving, archaeology and museums. I am here today to speak about Palau's designation as one of the seven underwater wonders of the world, about which the Council heard earlier. This is a very, very exciting project. To give the Council some background on this project, we wanted to hook some kind of great idea that would develop an increased global awareness of all the world's fragile marine environments. But we needed this hook. If we had come up with an idea like "the 10 best dive sites" or "the most spectacular reefs in the world", it would not have made it.

(Mr. Sammon)

Thus, we developed an idea we called "The Seven Underwater Wonders of the World", with the hook being that if we do not protect the seven underwater wonders of the world now, they, like the classic Wonders of the World of which you have all heard, will be lost forever.

To give the idea and the project credibility we brought together the top marine scientists, conservationists and naturalists in the country last August in Washington D.C. to select the Seven Underwater Wonders of the World. I think their names are impressive; they included Dr. Chuck Carr from the New York Zoological Society; Marcia Sitnik from the Smithsonian Institute; Dr. Bob Johannes from the Commonwealth Scientific and Industrial Research Organization (CSIRO), which is one of the most respected conservation organizations in Australia; Jean-Claude Faby from the United Nations Environment Programme (UNEP); Dr. Andy Recknetzer, a marine scientist from California; Lieutenant Jim Morris from Noah; Dr. Bill Stone from Cisluna Development Corporation in Washington D.C.; Dr. Ernie Ernst, the Director of Education from the New York Aquarium; Dr. Jack Carter from Wildlife Conservation International; and perhaps the most famous woman underwater explorer of our time, Dr. Eugenie Clark.

We brought those people down to Washington last August, and we selected the Seven Underwater Wonders of the World. The sites were judged on natural beauty, conservation value, geological significance and unique marine life. Twenty-one sites were nominated. There were slide presentations and video tapes, and it was a very informative day. After the presentations, Palau was named the number one Underwater Wonder of the World. The others were the Northern Great Barrier Reef; Lake Baikal in the Soviet Union, the largest and deepest lake in the world; the northern Red Sea; the Belize Barrier Reef; the Galapagos Islands in Ecuador and the Deep Ocean Vents, which are 3,000 to 6,000 feet under water. So the question is: Why was Palau named the number one Underwater Wonder of the World? I am not going

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to go into all the details, but to put it quite simply, it has the highest species diversity in the Pacific, with 300 species of coral alone. It is a spectacular and breath-taking site.

The reaction to this project worldwide has been overwhelming. I would like to read out a couple of statements. Jean-Claude Faby gave the opening speech at our Seven Underwater Wonders of the World meeting in Washington D.C., and he said:

"Professionally, as a staff member of UNEP, I find the project fits in very nicely with one of the most important programmes in which my organization is involved, namely, the protection of the marine environment."

He went on to talk about the programmes of UNEP, and he concluded by saying that

"The project of the Conservation Education Diving Archeology Museums International (CEDAM International)has, in common with our own concerns, a conservation and protection component based on sound scientific practices. But what I like most about it is the education and public-awareness side of the project. Most people have not had the chance to dive with the CEDAM International teams, and the public at large does not realize the incredible diversity, richness and sheer beauty of the underwater world. The only ecosystems to rival it in these respects are the tropical rainforests of our planet. Shakespeare may have been the greatest playwright in the English language, but if I had to vote for the greatest poet of all time, Nature would be the winner. CEDAM's Wonders project, so aptly named, should play a great part in educating people about the wealth and beauty of our earthly heritage and the need to care for it responsibly."

Since we announced the Seven Underwater Wonders of the World, we have had letters from world leaders from around the world. President Corazon Aquino wrote us and said:

(Mr. Sammon)

"I am pleased to hear that CEDAM International, devoted to conserving the global marine environment through research and education, is launching a public-awareness project to explore and document the seven underwater wonders of the world. I expect the project to initiate an underwater expedition that will instil in all of us, regardless of creed or theology, the need to protect and preserve our fragile marine ecosystems and our entire terrestrial environment. I send every good wish for the project."

Prime Minister Hawke of Australia wrote:

"Projects such as CEDAM International's Underwater Wonders of the World, which help make people aware of the need to conserve our natural heritage, are to be applauded. I sincerely wish the project every success."

Senator Al Gore, who is known as Mr. Global Warming here in the United States, wrote:

"Dear Mr. Sammon, I am writing to express my support for CEDAM's efforts to develop a greater awareness of and appreciation for the world's delicate marine ecosystems. I especially want to praise your decision to focus on developing information and materials that would be of particular interest to science educators within our nation's public schools. Solving the world's environmental problems is an enormous task. Efforts such as CEDAM's Seven Underwater Wonders of the World project can help us meet the challenge by educating the nation about the critical importance of the world's marine resources. I hope the project will be successful."

I want to leave with you and the Committee some of the dozens of clippings we have received on this project from all over the world. We have had editorials in The Washington Post, we are in National Geographic, and, again, the reaction has just been overwhelming. We also have a video tape of the announcement of the

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project. I should also like to note that when people now land in Palau there is a big sign saying, "Palau, the Number One Underwater Wonder of the World". We have heard that this has really turned things around in Palau and that everyone at all different levels is getting very involved and is proud that this is the Number One Underwater Wonder of the World. I think it is very important to protect this area for generations and generations to come. We have also received a letter from UNEP in the Pacific inviting CEDAM International to go over and help with conservation efforts.

What are our plans for the future? We are going to develop the world's largest exhibit of underwater photographs, a television documentary, a quality art book and educational materials - all with a focus on marine conservation and education, because the fact is that if we do not protect the underwater wonders of the world, they, like the classic Wonders of the World, will definitely be lost forever.

The PRESIDENT (interpretation from French): We have heard the last of the petitioners for this afternoon. If no member wishes to put questions to any of the petitioners, I would invite the petitioners to withdraw from the petitioners' table.

ORGANIZATION OF WORK

The PRESIDENT (interpretation from French): Tomorrow, the Council will hear two further petitioners. In addition, in keeping with the schedule we adopted this morning, the Council, after having heard the petitioners, will take up agenda item 4, "Examination of the Annual Report of the Administering Authority", at which time questions will be put to the Administering Authority on the situation in the Trust Territory of the Pacific Islands, and agenda item 6, as a continuation of the consideration of the "Report of the Visiting Mission to Observe the Plebiscite in Palau".

The meeting rose at 4.35 p.m.