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APPLICATION DE LA DÉCLARATION SUR L'OCTROI DE L'INDÉPENDANCE AUX PAYS ET AUX PEUPLES COLONIAUX

Lettre datée du 21 octobre 1997, adressée au Secrétaire général par le Représentant permanent de la Nouvelle-Zélande auprès de l'Organisation des Nations Unies

D'ordre du Secrétaire général du Forum du Pacifique Sud, j'ai l'honneur de vous communiquer ci-joint le rapport de la récente visite ministérielle du Forum en Nouvelle Calédonie.

Je vous serais obligé de bien vouloir faire distribuer le texte de la présente lettre et de son annexe comme document de l'Organisation des Nations Unies, pour l'examen par les organes compétents.

Le Représentant permanent

(Signé) Michael POWLES

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ANNEX*

FORUM MINISTERIAL VISIT TO NEW CALEDONIA

11 - 14 AUGUST 1997

REPORT TO THE
28TH SOUTH PACIFIC FORUM

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* Annex has been reproduced in the language of submission only.

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The Committee wishes to place on record its sincere appreciation to the Government of France, the Delegate of the French Government for New Caledonia and Wallis and Futuna and High Commissioner of the French Republic in New Caledonia, His Excellency Mr Dominique Bur, and his officials. No effort was spared by the High Commissioner's Office in enabling the Committee to meet as wide a representative group as possible and to cater for the Committee's special interests during its visit in New Caledonia.

2. The Committee would like to make special mention of Mr Gérard Baudchon, Special Assistant for Regional Cooperation, for the very professional manner in which the Committee's four day tour of New Caledonia was organised and facilitated flawlessly and for his good humour and patience.

3. The Committee is grateful for the warm reception accorded it by all the communities including, the Provincial and Customary Authorities, the representatives of the various political parties, the unions, the employer organisation and the churches. Their knowledge of the economic, political and social affairs of the Territory and their contributions during discussions with the Committee greatly assisted the Committee understand and appreciate the issues relevant to the objectives of its visit.

4. Finally, the Committee also wishes to record its appreciation to the interpreters, Dominique Toulet and Valérie Hassan, and the various other people who assisted in facilitating its work.

PART I

INTRODUCTORY BACKGROUND

A Forum Ministerial Committee comprising Fiji, Nauru and Solomon Islands was established at the Twenty-First South Pacific Forum Meeting in Port Vila, Vanuatu, in 1990, to "monitor events within New Caledonia as it moves towards an Act of Self Determination and to ensure that the Forum would be able to monitor the progress of the implementation of the Matignon Accords."

2. The Mission first visited New Caledonia in July 1991. The Mission was impressed with the genuine efforts of the Government of France and others to implement the provisions of the Accords, however, it was also concerned that a recurring issue was the differences in interpretation of what the Accords were meant to achieve. The Mission also believed that the ten year period granted under the Accords to allow the Kanak community to "catch up" might not be enough time to prepare them to exercise a meaningful decision in 1998. The Mission was of the firm view that there was a need to protect and enhance the pre-eminent rights of the Kanak community and did not accept that one of the goals of the Accords should be to place the Kanaks at the same level as the immigrant community. To this extent it encouraged the Kanak Socialist National Liberation Front (FLNKS) objective of launching a programme of action that would guide New Caledonia to independence in 1998.

3. The Twenty-Third Forum, held in Honiara, Solomon Islands, in 1992, recommended that the Ministerial Committee continue its role in maintaining an active and vigilant observation of the developments. A major review of the Matignon Accords was to be carried out in February 1993. The Mission visited New Caledonia in July 1993. At this mid-point of the Accords, the Mission believed that the progress in implementing them seemed to be working satisfactorily and the then new Government in Paris, the FLNKS and the Rally for New Caledonia in the Republic (RPCR) remained committed to the Accords. The Mission did not, however, underestimate the underlying conflicts and differences between the communities and acknowledged that rebalancing was still an enormous task. The mid-term review also revealed disparities in the implementation of the Accords, especially in education and training. The Mission was concerned that there remained divisions within the FLNKS as it was of the opinion that unity within the Kanak community was a prerequisite for independence. The Mission also noted that the challenge of defining the choices for the Referendum lay ahead and that it was necessary to ensure that any act of self determination should be in accordance with the established principles and practices of the United Nations.

4. The Ministerial Committee did not meet between the 1993 and 1995 Forums. Pressures on Ministers' time and the expectation that national, territorial and municipal elections in 1995 would provide significant pointers to the prospects for the 1998 Referendum were factors in the Committee's decision to postpone the timing of any further monitoring visits to New Caledonia. Subsequently, the sensitive state of relations between France and the Forum consequent upon the nuclear testing decision by France also became a factor.

5. During the Twenty-Sixth Forum, held in Madang, Papua New Guinea, in 1995, the Forum noted that while implementation of the Matignon Accords had continued smoothly and generally positively in the past twelve months, the Territory's long-term political and constitutional future remained uncertain. The Forum felt that as the count-down to the 1998 Referendum began in earnest, regional monitoring of the situation should be stepped up. This included reactivating, in cooperation with the French authorities, the Forum Ministerial Committee on New Caledonia. The Forum reiterated its view that the 1998 Referendum should closely follow accepted UN principles and practices.

6. In its 1996 visit to New Caledonia, the Committee observed that the parties to the Accords as well as all those who were consulted generally expressed satisfaction with the progress made under the Accords. All agreed that the momentum of the development projects initiated under the Accords should be maintained, pending a decision on the 1998 Referendum and thereafter. At the same time, they also expressed a degree of concern and anxiety about the consequences of a durable political solution not being found for New Caledonia before the Accords came to an end.

7. The 1997 Ministerial Mission comprised the Hon. Senator Filipe N Bole, CBE, Minister for National Planning, of Fiji, and the Hon. Titus Philemon, MP, Vice-Minister for Foreign Affairs, of Papua New Guinea. Accompanying officials were Mr Benjamin Newyear, Permanent Secretary of the Ministry of Foreign Affairs, Solomon Islands; Mr Gyani Nand, Deputy Secretary (Political). Ministry of Foreign Affairs, Fiji; Mr Peter Eafeare, Director General, Bilateral Relations Division, Department of Foreign Affairs and Trade, Papua New Guinea; Mr Bernard Bata'anisia, Chief of South Pacific Regional Section, Ministry of Foreign Affairs, Solomon Islands; Mr Ponabe Yuwa, Counsellor, Embassy of Papua New Guinea, Fiji; and Ms Andie Fong Toy, International Legal Adviser, and Mrs Amelia Siamomua, Donor Issues Officer, Forum Secretariat, Suva, Fiji. Solomon Islands was unable to be represented at Ministerial level. The members of the Mission were invited bilaterally by the French Government as representatives of their respective governments for the purpose of the Mission. As in 1996, Nauru declined to participate in the Mission in view of the current suspension of its relations with France. Papua New Guinea was again invited to participate instead. The Mission held consultations in New Caledonia from 11 - 14 August 1997.

OVERVIEW

8. As the Committee noted in 1996, under the Accords peace has been consolidated and there has not been a return to the tension and conflict of the 1980s which culminated in the signature of the Accords in 1988. As noted below, however, there has been some unrest over the delay in the resolution of the North Province nickel mine issue. Provincial structures have been put in place and each of the regions has been given a wide range of autonomy. A generation of Kanak leaders have been given a level of political power, including the management of two of the Provinces, that they have not enjoyed since the arrival of the European settlers. Land distribution has also been effected over much of the land that was subject to land claims.

9. Major infrastructure projects have been implemented throughout the Territory and the "400 cadres" programme has increased the education and training opportunities for the Kanak population. Schools have also been opened in a number of centres. In addition, increased contact between New Caledonia and its neighbours has assisted in breaking down the Territory's isolation and it is experiencing the benefits of increased cooperation and interaction with the region.

10. The goal of economic rebalancing has, however, not led to the establishment of major industrial sectors in the North to counterbalance the economic weight of Noumea. The economic benefits of the Accords have been felt less where the population is mostly Kanak.

11. Progress on reaching a consensus solution for New Caledonia's future political status has been limited although all the main players have confirmed their commitment to such an outcome. The FLNKS response to the French Government's confidential proposal to resolve the "historical dispute" between the French State and the Kanak people, the resolution of which the FLNKS has made a prerequisite to a resumption of tripartite discussions on the consensus solution, has not been made public. The North Province Société Minière du Sud Pacifique (SMSP) mining company's access to ore reserves for its proposed smelter project has also become a precondition to the resumption of the tripartite talks on a consensus solution.

THE MATIGNON PROCESS : RECENT EVENTS

Negotiations for a Consensus Solution

12. As the Matignon Accords do not specify the question that should be put to the voters in 1998, this in effect implies that the Referendum could be a "guillotine referendum", that is, status quo or independence. However, both the major parties, the FLNKS and the RPCR, are aware that such a Referendum would not resolve anything in the long term and would run the risk of renewed violence. At a meeting in Paris on 16 October 1995, the major parties agreed to formally accept the notion of a consensus solution on the future of the Territory as an alternative to a "guillotine referendum".

The Historical Dispute

13. The FLNKS has also called for a "strong symbolic gesture" on the part of the French State to settle what they refer to as the "historical dispute" between France and the Kanak people which dates from the time of the French colonisation. The President of the FLNKS had suggested in the past that nothing short of a "national apology" by France would satisfy the FLNKS.

14. On 4 September 1996, the FLNKS was handed a document by an Envoy sent by the then Minister for Overseas Departments and Territories (DOM-TOM), Mr De Peretti, which contained the French Government's suggestions on ways to resolve the historical dispute. The content of the document has been kept secret while the FLNKS has sought to have internal consultations on the proposal. It is understood that this document will form the basis for future negotiations between the French Government and the FLNKS.

Nickel Smelter Issue

15. On 2 July 1996, the French Government promised that it would transfer the rights of the Tiebaghi mine from the southern-based Société Le Nickel (SLN) to the northern-based SMSP to facilitate the proposal for the building of a smelter in the North Province. In September 1996, however, the head of Eramet (SLN's parent company) resisted the political pressure from the Government to transfer the mine rights. In response, the FLNKS said that the Government's inability to deliver on its promise meant that the FLNKS would disregard an earlier agreement to separate the nickel smelter issue from broader political negotiations and that the FLNKS would not continue with the latter until the smelter issue was resolved.

16. In October 1996, negotiations took place between the French Government and the nickel company representatives. On 28 October 1996, the independantistes put pressure on the Government by a complete blockade of nearly all the nickel mines in New Caledonia and warned that further disruptions to SLN's mining activities could be expected if the Government did not meet their demands.

17. In an effort to resolve the impasse on the development of a North Province nickel smelter, the French Government made a formal proposal to the FLNKS on 12 November 1996 on which SMSP's Poum nickel deposit would be exchanged for SLN's Koniambo deposit, thereby providing SMSP with the resources it needed to develop a nickel smelter. The proposal soon ran into difficulties as SLN and the FLNKS imposed conditions. The FLNKS's strong preference, however, remained access to the Tiebaghi deposit for the perceived benefits this would have for economic development in the far north. In a significant development, the Territorial Congress, on 21 November 1996, voted overwhelmingly in support of a motion for the development of a nickel smelter in the North Province.

18. Minister De Peretti visited New Caledonia in February 1997 in an attempt to advance the nickel issue sufficiently for the FLNKS to agree to resume negotiations on New Caledonia's future political status. However, three days of intensive discussions failed to achieve an in-principle agreement or even any significant movement of positions. Following De Peretti's visit, the French Government announced on 24 February 1997 that it was withdrawing from Eramet/SLN the mining rights to the Koniambo deposit and would be granting them to SMSP. This unexpected decision was taken with a view to resolving once and for all the nickel mine issue, particularly as time was running out for political negotiations if a winner-take-all referendum was to be avoided in 1998. Eramet's response was that it would use all the legal means at its disposal to reverse the Government's decision.

19. In March and April 1997, there were disruptions by the unions to the SLN mining activities aimed at forcing the Government and Eramet to resume negotiations with SMSP to settle the issue more quickly. With the blockade of nickel exports and the threat of civil disturbances likely because of the disruption of mining activities, Eramet announced on 23 April that it would hold new talks with SMSP in May to try and settle the nickel dispute. For its part, the Government announced that it was prepared to cease action to withdraw

the Koniambo mining title from Eramet if the two parties could reach an agreement on an amicable swap of their mining titles.

20. The negotiations between Eramet, SMSP and Falconbridge (SMSP's Canadian joint venture partner) in Paris in May 1997 reached an in-principle agreement for an immediate swap of the Koniambo and Poum titles. The parties agreed to allow their technical experts to continue talks during the month on the details of the agreement. The French Prime Minister, Lionel Jospin, has recently appointed an expert, Mr Philipe Essig, to evaluate the project's economic and industrial prospects and help facilitate talks between the parties.

Resumption of Negotiations for a Consensus Solution

21. During the passing of the Territorial budget in December 1996, the FLNKS and the RPCR worked together to address a projected deficit in the budget for the North Province. The agreement on the budget was lauded by the FLNKS President Wamytan and the RPCR Secretary General Frogier as indicative of a new rapprochement between the two parties. The two said that both parties wished to cooperate closely with a view to reaching early agreement on a consensus solution proposal which would see New Caledonia share sovereignty with France in another transition period of as yet undetermined length. Wamytan's and Frogier's comments were significant as the first indication that tripartite political discussions might resume since having been broken off in April 1996.

22. Any prospects for a resumption in the negotiations on New Caledonia's political future were put on hold until at least late June 1997 when President Chirac announced on 21 April 1997 that early legislative elections in France would be held on 25 May and 1 June. Generally, the holding of elections early was viewed favourably in terms of the negotiations on New Caledonia's political future as it meant that the most crucial period of talks in 1998 would not be interrupted. The elections resulted in a new leftist Government.

23. Negotiations on the substantive aspects of the political future of New Caledonia are expected to resume immediately after the report by Philipe Essig is presented to the Prime Minister on 15 September 1997.

POLITICAL DEVELOPMENTS

French Legislative Elections

24. In the early legislative elections held on 25 May and 1 June 1997, seven candidates contested New Caledonia's first electorate (Noumea and the Islands) while five ran for the second electorate (Grande Terre minus Noumea). With the FLNKS having announced in April that it would not contest the elections - participation was against the FLNKS charter and was inconsistent with the FLNKS demand for sovereignty for New Caledonia from 1998 - the elections were a right wing affair. As with the 1995 Provincial elections, the principal rivals to the incumbent RPCR candidates focused on criticising the manner in which Jacques Lafleur and the RPCR exercised power. Jacques Lafleur easily won the first electorate during the first round of voting (63.1% of the vote with Didier

Leroux of the New Caledonia for Everybody (UNCT) the nearest next candidate with 19.6%). Pierre Frogier won the second electorate after two rounds. The less than half voter participation rates in both rounds reflected adherence by the FLNKS supporters to the FLNKS call not to vote.

Electoral List

25. Fifteen French jurists visited New Caledonia in March/April 1997 to supervise the revision of New Caledonia's electoral list for the 1998 Referendum. The visit was required under the 1998 Referendum Act to ensure that only those domicile in New Caledonia continuously from 6 November 1988 would vote in the Referendum. Similar visits to revise the electoral list had occurred in 1991-92 and 1994-95. As a result of the 1997 visit, a further 1,350 people were deleted from the electoral list in addition to the 7,500 who had been previously deleted. The current valid electoral role stands at 105,048 voters although there is likely to be one final revision at the end of 1997. An issue still remains over whether or not electors coming of age between 28 February 1988 and the date of the Referendum in 1998 will be allowed to vote.

ECONOMIC DEVELOPMENTS

French Government Expenditure on New Caledonia

26. Figures available indicate that France spent 97.9 billion CFP (AUD 1.18 billion) on a range of financial transfers to the Territory in 1996. Forty per cent of the total (39 billion CFP) was in the form of French public service salaries and pensions; 10.8 billion CFP was for goods and services for the public service; 6.3 billion CFP was in transfers for the Territorial budget; 6 billion CFP was in transfers for the three Provinces for the development contracts and to cover education and health expenditures; 5.6 billion CFP was for public works (new police headquarters, high schools and Jean-Marie Tjibaou Cultural Centre); 5.3 billion CFP was in transfers to the communes (municipalities); 5 billion CFP was spent on national, territorial and provincial offices such as ADRAF (land distribution), ADCK (Kanak Cultural Centre), ETFPA (adult education) and ITFM (training institute); and 19.9 billion CFP on the armed forces. Administration (subsidised by the French Government) remains the main engine room of the economy.

27. The French budgetary allocations to New Caledonia for 1997 were as follows: 7 billion CFP for the specific "development allocation" (same as in 1996); direct appropriations to the three Provinces for their development contracts rose to over 4 billion CFP; 749 million CFP for Noumea municipal projects; 549 million CFP for the "400 cadres" scheme and 272 million CFP for other direct allocations to municipalities.

Territorial and Provincial Budgets

28. In opening the budget session of the Territorial Congress on 15 November 1996, the High Commissioner gave the traditional review of the Territory's performance during the year. Points to note included:

- The mining sector grew by 6.4% in the first semester of 1996 compared to the same period in 1995. Employment in the sector grew more strongly, up by 12% in the second semester of 1996 compared to the same period in 1995;

- After faring poorly early in the year (as a result of French nuclear testing), the tourism sector picked up noticeably in the second semester of 1996;

- Agricultural production (to October) increased by 4% over the same period in 1995;

- The commerce and services sector performed well in 1996;

- Inflation remained low, at 1.2% for the period October 1995-October 1996. In April 1997, the inflation rate in the year to April was 1.8%;

- Exports in the first semester of 1996 increased by 6.8% over the same period in 1995;

- The number of days lost to strikes in 1996 (until mid-November) was 4,616, which was considerably down from 14,330 in 1994 and 10,000 in 1995;

- The slump in the public works sector during 1996 was alleviated to some extent by a public works plan amounting to 12 billion CFP over three years which focused primarily on public housing.

29. The Territorial budget for 1997, which was passed by the Congress in December 1996, totalled 70.03 billion CFP (AUD 933 million) which was slightly larger than that for 1996. The budgets for the three Provinces also considered in December 1996 (although the North Province was not adopted until March 1997 because of a perceived deficit) were as follows: South Province 21.9 billion CFP (AUD 292 million); Islands Province 7.94 billion CFP (AUD 105 million); and North Province 13,174 million CFP (AUD 160 million).

International Trade

30. The cost of New Caledonia's imports in 1996 rose to 93,087 million CFP (AUD 1,241 million), which was 7.1% higher than the 86,894 million CFP expended on imports in 1995. The largest increases were in electrical goods and machinery, and transport equipment, which were up 14.5% and 16.2 %, respectively. Suppliers of goods were metropolitan France 41.4 % (down from 44.6% in 1995), other EC countries 14.8% and Australia 13.2%. New Caledonia merchandise exports in 1996 declined by 2% in value compared with 1995, and earned the Territory 50,200 million CFP (AUD 670 million). Ninety four per cent of total exports by value were nickel products. Non-nickel exports declined in 1996 by 10% over exports in 1995. New Caledonia's overall trade balance in 1996 was a deficit of 42.8 billion CFP (AUD 570 million), a deterioration on the deficit of 35.6 billion CFP in 1995.

31. A considerable reduction in imports in the first quarter of 1997 (by 11.6% compared with the first quarter of 1996) saw an improvement in New Caledonia's trade balance in the period although there was still a 6.3 billion CFP deficit. Total imports in January-March 1997 were valued at 18.6 billion CFP (AUD 226 million) and exports for the same period were 12.3 billion CFP (AUD 152 million), which was 4.2% less than for the same period in 1996. Nickel exports by value were down but other exports such as seafood improved considerably.

Employment

32. The average monthly number of unemployed in 1996 rose to 7,719, an increase of 4.2% over the number of unemployed in 1995. The greatest increase in 1996 occurred in the South Province, where unemployment grew by 7.6%. Fifty four per cent of the total number of unemployed were women.

33. By the end of the first quarter of 1997, the number of salaried workers registered with the Social Security Agency, CAFAT (which covers most employees), rose by 1% compared with the figure at the end of March 1996 to 44,625 although this was slightly down on the figure to the end of December 1996. The biggest increase over the year to end March 1997 was in the North Province where there was a 4.5% increase with a 1.1% increase in the South Province. The Islands Province fell by 13.7%. By sector, there were increases in agriculture and aquaculture, mining and commerce with losses in the building sector and transport.

34. In October 1996, the FLNKS organised a protest march to express concern over the number of Europeans who had settled in New Caledonia since 1988. The independantistes demanded greater protection of local jobs and the early transfer of control over immigration to the Territorial Congress and a letter to this effect was formally passed by the FLNKS President Wamytan to the Directeur de Cabinet of the High Commissioner. This protest and the nickel mine demonstrations were the first wide scale disruptions organised by the FLNKS since 1988.

Land distribution

35. In its 1996 report, the Land Rights and Rural Development Agency (ADRAF) noted that since the agency had been set up in 1988 under the Matignon Accords to redistribute Territorial and Caldoche owned land to indigenous tribes, 83,500 hectares of land had been redistributed. Of this, 68,200 had been given to tribes while 15,300 hectares had been sold to individuals. Rival tribal claims to land were holding up the redistribution of 12,000 hectares of land. ADRAF will begin to give more attention to ensuring that essential services such as water, electricity, sewerage and access roads are provided to the occupants of the land that has been redistributed.

MELANESIAN SPEARHEAD GROUP POSITION

36. Mr Rock Wamytan, the FLNKS President, attended the Eleventh Melanesian Spearhead Group (MSG) Leaders Summit in May 1997, in Fiji where he updated MSG members on developments in New Caledonia and registered the FLNKS's interest in New

Caledonia's possible future participation in economic and trade cooperation agreements between the Group's members.

37. In the Valavala Resolution, the Leaders "*reiterated their support for the FLNKS and their aspiration for the full independence of New Caledonia and commended the parties to the Matignon Accords in their efforts to develop a solution through negotiations and consensus, taking fully into account the wishes of the indigenous Kanak people.*"

REGIONAL COOPERATION

38. Contacts between New Caledonia and countries in the region continue to develop, especially in the economic areas. There was a trade mission to New Caledonia in October 1996 where companies from Fiji, Papua New Guinea, Solomon Islands, Tonga and Vanuatu participated. There will be another trade mission in October 1998. New Caledonia is also included in the Secretariat's business cost survey which will be conducted in a few months time. The survey will identify factors that contribute to the high cost of doing business in New Caledonia.

39. The Secretariat has sought from Japan approval for the newly established Pacific Island Centre in Tokyo to be free to promote French Pacific Territory products and facilitate trade and investment between the French Pacific Territories and Japan. The Forum trade offices in Auckland and Sydney already provide this facility. At the recent ACP Pacific Ministerial meeting, in Suva, Ministers agreed to support the concept of expanding the Pacific ACP group to include other Pacific island countries and territories. This can be expected to result in closer trade and economic relations between New Caledonia and ACP members.

40. Cooperation amongst New Zealand, Australia and France for maritime surveillance and disaster relief in the region also continues. New Caledonia (and French Polynesia) continues to be routinely invited to participate, at its own expense, in Forum-based technical committees and workshops. New Caledonia (and French Polynesia and Wallis and Futuna) also participates in meetings of specialist regional law enforcement bodies such as Customs Heads of Administration Regional Meeting and South Pacific Chiefs of Police Conference.

FLNKS/FORUM CONTACT

41. The practice of holding an informal dinner for representatives of the FLNKS and Forum Leaders so that Forum Leaders can obtain first-hand information on developments in New Caledonia will continue at this year's Forum in Rarotonga. An invitation has also been issued to the RPCR which has been accepted, for the first time.

KANAK FELLOWSHIP FUND

42. A Secretariat Officer accompanied the Committee to New Caledonia and briefed interested parties on the existence and status of the Kanak Fellowship Fund. They were

encouraged to make use of the opportunities offered by the Fund. The report by the Officer on her consultations is attached as *Appendix A*.

UN RESOLUTIONS

43. Since 1990, a consensus resolution on New Caledonia has been adopted by the United Nations Committee on Decolonisation and the United Nations General Assembly. The text of the 1996 resolution was adopted as resolution 51/144.

PART II

OBJECTIVES OF THE MISSION

44. The Ministerial Committee was set up to maintain active and vigilant observation of the progress of the implementation of the economic, political and social developments under the Matignon Accords in New Caledonia. As the Accords enter their final eighteen months, the Forum has focused greater attention on the 1998 Referendum. The Committee adopted the following as the objectives of the Mission:

- To update its view since the Mission's visit in July-August 1996 of the implementation of the Matignon Accords, particularly the goal of cultural, economic and social rebalancing. In this context, the Mission should assess as far as possible the following, which were the essential features of the 1988 Referendum Bill: the level of decentralisation that has occurred; the recognition of Melanesian custom; the achievement of a new economic balance; the implementation of a new land policy; improvement of the Territory's employment regulations; and the performance of the State in guaranteeing the application of the Accords;

- To assess developments relating to the 1998 Referendum, bearing in mind the Forum position that the Referendum should closely follow accepted UN principles and practices;

- To assess the assistance that the Forum can provide in the final stages of the implementation of the Accords and the Referendum.

PART III

CONSULTATIONS

45. As in the previous visits, the Committee met and was provided with detailed briefings by a broad cross section of the New Caledonia community. These included not only the principal partners to the Matignon Accords but also the Delegate of the French Government for New Caledonia, Wallis and Futuna and the High Commissioner of the French Republic in New Caledonia; Provincial and Territorial authorities; the Customary Advisory Council; trade unions; employer representatives; religious organisations;

community groups, and various other political parties active in the affairs of the Territory. The programme of the Committee was organised by the Office of the High Commissioner. It is attached as *Appendix C.*

SUNDAY 10 AUGUST

Meeting with the Australian and the New Zealand Consuls-General

46. Ms Julie Mackenzie, New Zealand Consul-General, and Mr Graeme Wilson, Australian Consul-General, in Noumea provided the Committee with a useful background briefing on developments in New Caledonia since the Committee's visit to New Caledonia in 1996.

MONDAY 11 AUGUST

Meeting with the Kanak Socialist National Liberation Front (FLNKS), Yate

47. Members of the FLNKS present during the formal meeting were Mr Rock Wamytan, Union Calédoniénne (UC) and President of the FLNKS; Mr Victor Tutugoro, President of Union Progressiste Mélanésienne (UPM); Mr Aloi Sako, Rassemblement Democratique Océanien (RDO); Mr Raphael Mapou, Parti de Liberation Kanake (PALIKA); Mr Atelemo Moleana, Secretary General of the FLNKS; Mr Konyi Wassissi, Member of the Political Bureau of the FLNKS; Mr Ambroise Wimbe, Member of the Political Bureau of UPM; Mr André Nemia and Mrs Macha Iboudghacem, staff members of the FLNKS. Also in attendance were Mr H Newdou, Mayor of Yate; Mr Gregoire Tara, Chief of Unia; Mr Charles Attiti, Big Chief of Goro; and Mr Albert Ouetcho, Big Chief of Touaourou.

48. The presentation by the FLNKS and the ensuing discussions focused primarily on the Territory's political future. The thrust of the FLNKS position was that the 1998 Referendum should start a process of the Territory's accession to independence. The framework for this process would initially be a state in association with France which would provide for a gradual disengagement including guarantees to make this process irreversible, from the French Constitution.

49. The gradual disengagement from France would take place over a period of time whose length had to be determined. The FLNKS position was that it should be as short as possible as experience had shown that the interim period before independence could be politically unstable.

50. The interim period would be used to bring about the gradual transfer of competencies currently held by France. This would need to be accompanied by the resources necessary for their management (financial resources in particular). The FLNKS considered that France not only had a historical duty to assist the Territory towards independence but independence under today's conditions also required partnership and cooperation with the former governing power.

51. The FLNKS vision of the future society was that it would be a Kanak country whose institutions would take into account the specific features of the indigenous people. It would have the name "Kanaky", a flag, an anthem and all citizens would have Kanak nationality. The FLNKS did, however, recognise that the various other communities in the Territory would have a future role to play in the Kanaky state being contemplated. The French heritage would also be recognised and the working language would be French. The Territory would join regional and international organisations such as the MSG, the Forum, the Pacific ACP group and the UN. Kanaky would be a democratic and lay republic that would protect universal suffrage, freedom of speech, association, thought and religion. It would also adhere to the major international agreements.

52. The Kanak state would operate on the principle of the separation of powers, and the current three levels of government would continue but with greater recognition of the Kanak custom and cultural institutions. The FLNKS was of the view that the excesses of the past ten years of decentralisation would need to be corrected. The economy would also have to be restructured to correct the current situation of being over-assisted and dependent on the outside and France in particular. The Kanak state would need to exercise control over the natural resources, transport and communications and set up appropriate development policies.

53. The first phase of the negotiations would be with France regarding the resolution of the historical dispute, with the second phase of political discussions being conducted between the three partners to the Matignon Accords. Other political, social and professional interests would be included in the negotiations once there was agreement on the political framework. Although the FLNKS acknowledged that the negotiation process would require some flexibility on their part, the following were the basic claims that had to be preserved: restoration of the rights of the Kanak people and irreversibility of the process leading to sovereignty and independence.

54. Taking into account the above stated aspirations and wishes of the Kanak population, including their wish to ensure total independence for the Territory along the principles reflected above, the FLNKS did acknowledge that this desired outcome could not possibly be achieved through the process anticipated in the 1998 proposed Referendum. To this end, the FLNKS noted that a negotiated solution would be the preferred option in 1998, as opposed to a "yes" or "no" vote in the Referendum.

55. At this stage, there were converging views around certain principles: the need to redefine links between New Caledonia and France; the redefinition of these links leading to an institutional arrangement evolving from 1998 onwards; shared sovereignty with France; an arrangement that would bring about emancipation; and a specified time frame for the transfer of powers from France to New Caledonia. There were, however, differing views on: whether a decision should be made in 1998 on accession to independence upon completion of an irreversible process; the duration of the interim period and the institutions to be set up during this period; the powers that should be progressively transferred; how these powers should be organised; and how the Territory should be structured economically and socially.

56. The FLNKS confirmed that negotiations on the political future of the Territory would not be resumed until access to the mining resource required for the proposed nickel plant in the North Province had been guaranteed. The importance of this project in the context of rebalancing and ensuring the viability of independence was stressed. In meeting with Prime Minister Jospin in July 1997, the FLNKS was assured of his desire to resolve the mining issue as soon as possible to enable the political negotiations to continue. The FLNKS was awaiting the report by Philipe Essig which was to be completed by 15 September 1997. The FLNKS position was that once the mining issue was resolved, the negotiations would then be on the basis of the document given to the FLNKS by France on 4 September 1996.

57. The FLNKS expressed its hope that the Forum would adopt a firmer position with regard to its political claim. A translated version of the statement presented by Mr Wamytan is attached as *Appendix D* .

Meeting with New Caledonia's Roman Catholic Archbishop

58. The Archbishop, Monsignor Michel Calvet, emphasised the importance of a consensus solution being found. An agreement had to be found not only for the good of the Territory as a whole but the young people in particular. The problems being faced by the large young population such as unemployment, were referred to. The Archbishop was also of the view that any agreement reached had to include all the people of New Caledonia.

Meeting with the Evangelical Church of New Caledonia

59. The Committee met with the Reverend Wanir Welepane, President of the Evangelical Church in New Caledonia and Loyalty Islands; Pastor Erick Kasovimoin, Secretary General of the Evangelical Church in New Caledonia and Loyalty Islands; and Mr Billy Wapotro, Director, Evangelical Church School Department.

60. Since 1979, the Evangelical Church had taken a firm stand in favour of independence. The church supported a solution that was acceptable to the whole population of New Caledonia, otherwise it feared a return to the civil disturbances of 1984 and 1988. It expressed concern at the continued marginalisation of the Kanak people.

61. The Evangelical Church was of the view that the French Government had to take the lead in the negotiations for a political solution and could not continue to state that it was a matter for the people of New Caledonia. Until France clearly stated its position, the situation would not improve. The Church raised the possibility of a third party intervention to act as a catalyst to break the current stalemate.

TUESDAY 12 AUGUST

Meeting with the Delegate of the French Government for New Caledonia and Wallis and Futuna and High Commissioner of the French Republic in New Caledonia, and other Officers of the High Commission

62. The Committee was invited to a working breakfast with the High Commissioner, Mr Dominique Bur. Also present from the High Commissioner's Office were Mr Bernard Bouloc, Chief Secretary, (State and Territorial Administration); Mr Jacques Michaut, Deputy Chief Secretary, (State and Territorial Administration); Mr Christophe Bay, Private Secretary (State Administration); Mr Guy Mascres, Deputy Private Secretary, (State Administration); and Mr Gérard Baudchon, Special Assistant for Regional Cooperation.

63. The discussions with the High Commissioner focused on the political events since the Committee's last visit in 1996. In the past year, there were four major events. The first was the handing over of the document by the French Government to the FLNKS, in September 1996, on its position on the historical dispute and proposals for the future of New Caledonia. Although the FLNKS had had internal consultations, the French Government was still awaiting a formal response from the FLNKS.

64. The second was the change in leadership in the Union Calédoniénne. The new leadership was younger and was perceived to have adopted a harder line. It was also noted that the new leaders were not elected Members of the Provincial Assemblies.

65. The third event was the link established between the political discussions and the North Province smelter issue and, in particular, the FLNKS position that the issue had to be resolved before political discussions could resume. The stumbling block had been that SMSP had requested access to the ore deposit immediately whilst SLN would only give the ore deposit after a final decision had been taken to build the smelter.

66. The fourth event was the State parliamentary elections which were held on 25 May and 1 June 1997 and the formation of a new Government. The reaction to the holding of early elections and the result of the elections had been positive. The period that would have been taken up with the elections could now be used for negotiations on the Territory's future. The new French Government had made it clear that New Caledonia was a priority, as evidenced by the early visit by the FLNKS and the RPCR to Paris to meet the new Government, the appointment of advisors to the Prime Minister who were familiar with New Caledonia or had worked in New Caledonia and a statement made by the Prime Minister which made special mention of New Caledonia.

67. The High Commissioner advised that Article 2 of the 1988 Referendum Act provided for a referendum (to be held between 1 March - 31 December 1998) which without specifying details must ask the electorate whether it was in favour of independence or remaining with France. Article 2 was consistent with Article 53 of the French Constitution, which stated that a decision for independence had to have the support of the population. An English translation of Articles 2 and 53 are attached as *Appendix E.*

The French Government, however, favoured a negotiated solution being submitted to the population instead of a "yes" or "no" Referendum in 1998.

68. The French Government had thus given priority to resolving the mining issue as exemplified by the appointment of an expert who was to report to the French Government by 15 September 1997. The report was to define the conditions under which the SMSP mining project could be implemented. It would also provide a general assessment on the prospects for the New Caledonia mining industry.

69. During the second stage, political negotiations would resume as soon as possible, hopefully by the end of September or the beginning of October 1997. The High Commissioner also advised that the third option of a negotiated solution (as opposed to *status quo* or *independence*) did not seem to have any constitutional basis. However, the three possibilities were: amendment of the Referendum Act 1988; amendment of the French Constitution; or, if the first two were not possible, a third question on the negotiated solution in the 1998 Referendum. The High Commissioner added the proviso that the constitutional basis for implementing a negotiated solution was not clear and was still being debated by legal experts.

70. The High Commissioner felt positive that a solution would be found to the political future of the Territory because there was a geniune will on the part of all parties to find a solution and to resume negotiations as soon as possible.

Meeting with the Employers' Federation (Fédération Patronale)

71. The Employers' Federation was represented by Mr Jéan-Remi Buraglio, President; Mr Philippe Massenet, Vice-President, Small and Medium Companies and Industries; Mr Stéphane Damizin, Vice-President, Small and Medium Companies and Industries; Mr Jean-Marc Mouledous, Vice-President, Commerce Sector; Mr Patrick Lafleur, Vice-President, Industry Sector; Mr Jean-Claude Dang, Vice-President, Services Sector; and Mrs Annie Beustes, Secretary General, Employers Federation.

72. The Employers' Federation expressed its concern that although there had not been any degradation, the political uncertainty had blurred economic prospects in the short to medium term. Economic developments that were supposed to be carried out by the State had been in abeyance for the past few months. The Employers' Federation had made efforts to inform the independantistes of the economic realities of New Caledonia. All parties apparently understood the importance of political stability for investment and economic development.

73. The Employers' Federation emphasised that whatever status was decided for New Caledonia, it had to be within a defined time frame in order to maintain conditions that were favourable to economic and political development. The Employers' Federation expressed its hope that New Caledonia would be governed by principles which allowed free enterprise and free trade.

74. With regard to the duration of a possible transition period, the Employers' Federation supported one that would be long enough to encourage investors to invest and

get a return on their investment. With globalisation, the restructuring of the US economy and the high economic growth in SE Asia, it would be in New Caledonia's interest to align itself with a large economic power such as France. A longer transitional period would allow New Caledonia to observe global developments and to assess whether there was an economic future as an independent state. The Employers' Federation noted that the independence claim was relatively new (last fifteen - twenty years) and the Territory needed more time to look for the right solution.

75. With regard to Kanak participation in the economic sector, the Employers' Federation observed that the modern Western economic system was relatively unknown in the Melanesian culture and, consequently, a transition period would be useful for the Kanak population. The Employers' Federation also noted that New Caledonia enjoyed a high standard of living. There existed a number of social systems, which would be affected if the situation in New Caledonia was changed abruptly.

76. The Employers' Federation was optimistic on the future of New Caledonia and assured the Committee that the business people represented by the Federation were fully aware of their responsibilities and whatever the political outcome, they were committed to New Caledonia.

Meeting with the National Front

77. The Committee met with Mr Guy George, Federal Secretary; and Mr Bernard Herpin, Federal Deputy Secretary. The Committee was advised that the National Front was the third largest party in France and since the Committee's visit in 1996, the National Front had increased its membership by thirty per cent. The National Front stated it was happy with the neutral role adopted by the Committee.

78. With regard to the Matignon Accords, the National Front observed that if the intention of the Accords was to strike an economic balance in New Caledonia, then the ten year period had been too short. Based on the past eight years, substantial funding would still be needed to develop further infrastructure in New Caledonia and only France was in the position to offer such funding.

79. The National Front also made the following observations: New Caledonia was under-populated and therefore production was limited in scope - if new opportunities were to be created, a larger population base was needed; investors needed guarantees, especially on the long term stability of the Territory as they were fearful of what would happen at the end of 1998 and the independantistes had to take some responsibility for this; the situation regarding the North smelter issue indicated clearly how the SLN would have been treated had the FLNKS been in power; and a new status creating wider autonomy should not create new injustices by protecting the interest of a few. The National Front made special mention of the protection of freehold land and the Kanak land claims in this context.

80. The National Front believed that as long as France was present in New Caledonia, there would be a progressive and reasonable approach that would guarantee economic and social stability. The National Front requested the Forum to remain neutral and to allow New Caledonia to reach a solution in its own way.

81. The National Front supported New Caledonia becoming a "French Pacific region" and rejected independence or independence in association as it perceived this as severing links with France. Becoming a French Pacific region would entail local governance with matters such as defence and international relations remaining with France. Alternatively, all decisions could be taken in New Caledonia with France having a veto on certain matters. In twenty - twenty five years, a referendum on independence could then take place. Whatever system was put in place, the National Front supported the voting threshold being increased from fifty per cent plus one to eighty per cent to avoid a large number of voters being dissatisfied. The National Front accepted that a solution had to be reached that was acceptable to everybody.

Meeting with the New Caledonia for Everybody (UNCT)

82. The Committee met with Mr Delin Wema, Member of the North Province, Member of Congress, and Deputy Mayor of Houailou; Mr Pouko Selefen, Member of the South Province and Member of Congress; Mr Denis Milliard, Member of the South Province, Member of Congress and Secretary General of UNCT; and Mr Alexandre Catanéo, Private Secretary to the President of UNCT.

83. The UNCT explained that the name of its party reflected its wish for a united New Caledonia. The UNCT supported New Caledonia remaining with France for a significant time to ensure that mechanisms were put in place so that democracy became a reality. The UNCT believed that there would be a strong evolution towards greater emancipation but for the moment New Caledonia should remain with France. The UNCT gave several examples in support of its claim that democracy did not exist in New Caledonia. The UNCT also did not believe that New Caledonia was economically ready for independence. Neither was it convinced that the independantistes' support for independence was still not based on a racial vision rather than an economic or political vision.

84. If a negotiated solution was not reached, the UNCT would campaign during the Referendum for New Caledonia to remain with France by explaining to the electorate the economic reasons supporting its stance. If a negotiated solution was reached, the UNCT would accept this. The UNCT expressed its dissatisfaction with the fact that because there were only three main partners to the negotiations on the Territory's future, based on electoral results, twenty-five per cent of the elected officials who were neither members of the RPCR nor the FLNKS were not being heard.

Meeting with the Board of the Customary Advisory Council

85. The Committee met with Mr Berge Kawa, President of the Customary Advisory Council (CAC); Mr Gabriel Paita, President of customary area Djubea-Kapone (Noumea region); Mr Daniel Nekelo, President of customary area Iaai (Ouvea); Mr Waboutch Wainebengo, Secretary General of CAC; Mr Clement Vendegou, Private Secretary to the President of CAC; and Mr Raoul Bouacou, officer in charge of the yam conservatory project.

86. The Committee was informed that the Customary Advisory Council was established by the 1988 Referendum Act. It was to be consulted by the Congress, the Provincial Authorities and the High Commissioner on land and resource matters and any legal issues specific to the Kanak population. The Customary Advisory Council represented the eight customary areas which broadly reflected the eight linguistic areas of New Caledonia. There were five customary areas on mainland New Caledonia with one each on the Loyalty Islands. The Customary Advisory Council had also been supporting the preservation and dissemination of Kanak custom and culture.

87. The Customary Advisory Council supported the establishment of a customary senate after 1998 with legislative powers on land and Kanak matters. The senate would also be consulted on other matters, for example, by the Economic and Social Committee. Although the Customary Advisory Council was not involved in the negotiations on the political future of the Territory, it supported independence. The statement made by the President of the Customary Advisory Council is attached as *Appendix F*.

Meeting with the Confederation of Kanak and Exploited Workers' Union (USTKE)

88. Present at the meeting were Mr Louis Kotra Uregei, President; Mr Gèrard Jodar, First Vice-President; Ms Augustine Poithily, Third Vice-President; and Mr Pierre Chauvat, Secretary General. USTKE gave a mixed stock-take on the implementation of the Matignon Accords. There had been major infrastructure developments in the North and the Loyalty Island Provinces and a significant effort made towards achieving the target of the "400 cadres" programme. In USTKE's view, however, the Kanak population was in a weaker position than in 1988. The French Government had not respected the spirit of the Matignon Accords, particularly with regard to immigration.

89. The 1995 census reported that in the period 1989-95, over 12,000 people had migrated to New Caledonia. USTKE advised that through their own sources they estimated that 2,000 people per year had been arriving in New Caledonia since the Matignon Accords. Since the Kanak population was currently 80,000, this would mean that by the end of the Accords, a number equivalent to a quarter of the Kanak population would have entered New Caledonia. These immigrants did not qualify to vote in the Referendum under the Matignon Accords but the effect of this new population included a high rate of unemployment and a lack of housing, causing the emergence of squatter settlements around Noumea. If there was a further transitional period, for example, another twenty-thirty years, on current emigration rates there would be 80,000 new immigrants at the end of that period, which was equivalent to the existing total Kanak population. There would no longer be a Kanaky. As the free movement within France was the right of every French citizen, USTKE saw independence as the only way to control immigration, whether full independence or independence in association with France.

90. The mining issue was also of great concern to USTKE. SMSP was seen as a clear example on which the independantistes had taken up the challenge under the Matignon Accords but the current stalemate reflected the State's reluctance to go along with the wishes of the Kanaks. USTKE requested Forum support on the immigration and the mining issues.

91. USTKE doubted if there would be a victory for the independantiste parties if there was no consensus solution. This would in turn lead to civil disturbances, contrary to the aim of the Matignon Accords, which was to prepare the Territory for independence. In USTKE's view, the Accords had failed in their principal aim.

WEDNESDAY 13 AUGUST

Meeting at Tadine, Administrative Centre, Mare

92. The Committee met with Mr Jules Palaa, Mayor of Mare (FLNKS); Mr Léon Koce, First Deputy Mayor; Mr Kaloi Cawidrone, Third Deputy Major (UC); Mr Victor Inea, Fifth Deputy Mayor; Mr Paul Jewine, President of Provincial Assembly (FLNKS/UC); Mr Robert Paouta Naxue, Member of the Loyalty Islands Provincial Assembly (RPCR); Mr Edouard Wayaridri, Municipal Councillor (RPCR); Mr Willy Nemia, Municipal Councillor (FDIL); Mr C Wahea, Municipal Councillor (Nengone Future); Mr Edouard Waute, Councillor (FLNKS/PALIKA); and Mr Martin Jaeger, representative of the French State (Delegate Commissioner for the Loyalty Islands).

93. The Committee was advised that fifty per cent of the population of Mare (10,041) was under twenty five years of age. It was a population without resources, with only five - six percent working in the civil service. Opportunities for job creation were minimal and the local population was turning to agriculture and exploitation of the marine resources. Forty five per cent of the island's budget was being spent on investment and fifty five percent on its operational budget. Mare was disadvantaged because of its isolation and the representatives present expressed their gratitude for the investment by the French Government. This included a hotel, port facilities, a new airport, two medical centres, a bank, new schools and the provision of fresh water.

Meeting with the President of the Loyalty Islands Province

94. The Loyalty Islands Province was represented by its President, Mr Nidoish Naisseline; Mr Jules Palaa, Mayor of Mare; Mr Léon Koce, First Deputy Mayor; Mr Alphons Cawidrone, Third Deputy Mayor; Mr Victor Inea, Fifth Deputy Mayor; Mr Willy Nemia, Municipal Councillor; Mr Edouard Wayaridri, Municipal Councillor; Mr Richard Kaloi, Member of the Loyalty Islands Province; Mr Robert Paouta Naxue, Member of the Loyalty Islands Province; and Mr Macate Wenehoua, Private Secretary to the President of the Loyalty Islands.

95. Mr Naisseline tabled a document on the Loyalty Islands Province which outlined the Province's institutions, included statistics on the Province and noted economic difficulties being experienced by the Province. (It is attached as *Appendix G).* With regard to the latter, the Committee was informed that as a result of the Accords, substantial development, such as the building of roads, schools, banks, post offices and hospitals, had taken place and water and electricity provided. The Province was, however, concerned that with these developments the expectations of the population had been raised to an unrealistic level. It was not clear how these expectations would be met in two years time with the possibility of the cessation of French support when the Accords came to an end. This would be exacerbated by the Province's limited resources.

Meeting with the Movement for France (MPF)

96. The Committee met with Mr Claude Sarran, President of MPF, Member of the South Province Assembly; Mr Michel Boyer, Secretary (Territorial); and Ms Nadège Bourdois, MPF assistant. The MPF was the local representation in New Caledonia of a national party in France. It had two elected officials in the Territorial Assembly and representatives in the municipalities.

97. The MPF supported the institutional status quo although it was willing to consider modifications. The MPF assured the Committee that its position was not based on jingoism but cultural, economic and social development. The MPF noted that New Caledonia enjoyed a relatively high standard of living compared to other Pacific countries although New Caledonia was a small Territory (200,000 people) with no economic weight on the world stage. The MPF contended that France's continued links with New Caledonia would preserve New Caledonia's standard of living and economic situation and ensure stability and greater contacts with the English-speaking countries in the region. New Caledonia would also benefit from France's membership of the EU and its consequent privileged relationship with a number of countries.

98. The MPF advised the Committee that the French Constitution only provided for independence, not independence in association. The MPF called upon the Forum not to support independence for New Caledonia nor its separation from France as this would be against the interests of New Caledonia. The MPF expressed its hope that it would be consulted on the future of New Caledonia.

Meeting with the Rally for New Caledonia in the Republic (RPCR)

99. The RPCR was represented by Mr Harold Martin, President of the Congress, Mayor of Paite, Member of the South Province Assembly; Mr Pierre Frogier, Member of the French Parliament, Mayor of Mont-Dore, Member of the South Province Assembly, Member of Congress; Mr Simon Loueckhote, Senator of New Caledonia, Second Vice-President of the Loyalty Islands Province Assembly, Member of Congress; Mr Jean Lèques, Mayor of Noumea, Member of the South Province Assembly, Member of Congress; Mrs Marie-Noelle Themereau, Member of the South Province Assembly, Mr Robert Moyatea, High Chief of the South, Second Vice-President of the South Province Assembly, Member of Congress; Mr Jean-Claude Briault, Member of the South Province Assembly, Member of Congress; Mr Sosimo Malalua, Member of the South Province Assembly, Member of Congress; Mr Tran Van Hong, Municipal Councillor (Noumea); Mr Jean Wasman, Municipal Councillor (Noumea); Mr Bernard Deladrière, Municipal Councillor (Noumea), Fourth Deputy Mayor, Private Secretary to Mr Lafleur; Mr Philippe Ma-Moon, Polynesian representative in the RPCR; and Mrs Wazana Naxue, Member of the RPCR.

100. The RPCR noted that it was more optimistic with regard to negotiating the political future of New Caledonia when it met with the Committee in 1996. The RPCR supported the resumption of negotiations so that a negotiated solution could be implemented. The RPCR supported continuing links with France and did not think New Caledonia was ready for independence. The RPCR was confident that a solution would be

found for the institutional future of New Caledonia and was conscious that the population was waiting for such a solution.

101. The RPCR expressed its firm belief that maintaining links with France was important because France would continue to play a major role in the Pacific in the future, in view of the fact that other metropolitan powers were gradually withdrawing from the region.

102. The RPCR also advised the Committee that it would be accepting the Forum's invitation to meet the Leaders at the Rarotonga Forum. The RPCR realised that better communication with the region would improve the way the RPCR was perceived. The RPCR said it now realised that New Caledonia was part of the region and it looked forward to meeting the Forum Leaders in Rarotonga. The RPCR was encouraged by the Committee to meet the Leaders so that it could have direct discussions with the Forum Leaders to complement the work of the Committee. This would be the first time that the RPCR would be accepting the invitation of the Forum Leaders.

Meeting with the Workers' and Employees' Union of New Caledonia (USOENC)

103. The Committee met with Mr Gaston Hmeun, Secretary General of USOENC; Mr Didier Guenant, First Secretary General; Mr Roger Noraro, Second Deputy Secretary General; Mr Pierre Bouanou, Secretary General (Transport Section); Mr Leon Saifin, Secretary General (Civil Servants Section); Mr Eugene Toena, Secretary General (Metallurgy and Mining Section); Mr Terono Manate, Secretary General (Public Works and Building); Mr Gilbert Drayton, Former Secretary General in charge of retired workers; Mr Axel Terorotua, Member of the retired workers' section; Mr Jean Hnaissilin, union delegate; and Mr Raphael Ghesquiere, Secretary of SYSTEP, Private Education.

104. USOENC was a multi racial, independantiste union which through union action had brought about major economic, social and cultural development in the Territory. USOENC recognised both the legitimate claim of the Kanak people and the other communities in New Caledonia and would not support the status quo after 1998. USOENC predicted open hostilities if there was a "yes" or "no" referendum in 1998 and therefore favoured a consensus solution. It, however, contended that the consensus solution had to be more than a political solution and fundamental issues had to be addressed such as the control of natural resources and immigration; a unified social and medical scheme; and a new tax system. Preparation for independence had to include the implementation of social reforms, which should involve union participation. USOENC was conscious of the examples where countries had not been adequately prepared for independence which resulted in economic, political and social problems later. USOENC considered that it would be premature for links with France to be severed after 1998.

Meeting with the President of the North Province

105. The Committee met with Mr Léopold Jorédié, President of the North Province; Mr Daniel Goa, Secretary to Cabinet; and Mr Richard Poido, Secretary General (Administration). Mr Jorédié tabled several documents one of which indicated the results of the 1988 Referendum, the 1989 and 1995 Provincial elections, and predicted the results

of a "yes" or "no" referendum and a consensus solution in 1998. The document is attached as *Appendix H.* Since a "yes" or "no" referendum would result in a winner and a loser, putting the Territory back to square one, Mr Jorédié supported a consensus solution. He also acknowledged that independence was not feasible in 1998. A large majority in both the FLNKS and RPCR supported a consensus solution which would lead to increased peace and prosperity.

106. Mr Jorédié was of the view that the consensus solution should include a mechanism which guaranteed that the solution would be an irreversible process which would lead to independence. The Committee was advised that under the present Constitution there were only two possible status: an overseas territory or a department. An overseas territory could request to become fully integrated as a department. If it wished to become independent, Article 53 of the French Constitution required the holding of a referendum. Article 2 of the 1988 Referendum Act, which governed New Caledonia, defined the electorate entitled to vote in the Referendum that must be held between 1 March and 31 December 1998. Although neither the French Constitution nor the Referendum Act defined the question that had to be asked in the Referendum, the French Constitution would have to be amended to allow a status other than a territory or a department, that is, independence in association.

107. With regard to the proposed smelter in the North Province, the Committee was advised that in 1995 the North Province and SMSP invited experts from Falconbridge, which was the second largest mining processing company in the world, to conduct a feasibility study on the building of a smelter in the Province. In September 1995, the experts concluded that it was feasible to have an ore processing plant in the North Province provided that two ore deposits were guaranteed. There were currently two such ore deposits in the extreme North, in Poum, one owned by SMSP and the other by SLN/Eramet. SMSP and Falconbridge agreed that Falconbridge would provide financial support and access to markets and technology, and SMSP the ore by negotiating with SLN/Eramet.

108. The smelter project was presented to the French Government in November 1995 with the request that the State did what was necessary to transfer the ore. As in France, the mining resources are owned by the State and the State was the majority shareholder in SLN/Eramet, the Province believed this was a feasible proposal. The smelter was vigorously supported by the population in New Caledonia in general, and the North Province in particular, as it was seen as vital to the economic growth of the Province. The French Government agreed to approach Eramet.

109. In April 1996, it became clear that Eramet would oppose the transfer of its ore deposit. Eramet argued that it was improving its plant in Noumea and the ore deposits in the North were vital for its long term viability. Also in April 1996, the FLNKS made the resolution of the mining issue a prerequisite for resumption of the negotiations on New Caledonia's political future. The North Province now realised that the State could not transfer the ore deposit to SMSP because of pressure being exerted by the other shareholders.

110. Mr Jorédié stated that in his personal view the resolution of the mining issue should not be a prerequisite for the resumption of negotiations. Instead, it should be part of the total package for negotiations similar to the agreement in the Matignon Accords. Such an agreement would have a specific time frame to avoid SMSP losing access to its existing ore deposit. Mr Jorédié believed that this issue had to be part of the political process because SLN was unwilling to sell its ore deposit since SMSP was perceived to be a competitor. In addition, there was not much point in making the issue a prerequisite as there had not been any progress in eighteen months and direct discussions between SMSP/SLN/Eramet would take longer than if it was part of the political negotiations.

FIELD VISITS

111. In Mare the Committee visited two hotels (a small eco-tourism development in a village in Wabao and a larger more commercial complex in Nengone), a small avocado and lychee orchard, and a school and a medical centre in Tadine. The Committee also visited a prawn farm/hatchery in Foue (North Province), and a large mixed agricultural farm in Bourail (South Province). It also visited the Jean-Marie Tjibaou Cultural Centre under construction in Noumea which is expected to be opened on 4 May 1998. All the field visits were examples of developments under the Accords.

PRESS CONFERENCE

112. The Committee held a press conference at Le Surf Hotel in Noumea on Thursday 14 August 1997, on the conclusion of its consultations. A copy of the Press Statement is attached as *Appendix I.* The Leader of the Committee, the Hon. Senator Filipe N Bole, also gave a live interview on television at the end of the Committee's programme.

PART IV

OBSERVATIONS

113. The Committee's observations on the implementation of the Matignon Accords and the various economic, political and social developments taking place since its last visit in July-August 1996 are highlighted below.

114. The Committee found unqualified support from all quarters for its visit. This was unlike in the earlier visits, when some of the Loyalist groups had reservations about the Committee's visit. This change in attitude has been attributed largely to the Committee's neutrality on the issue of New Caledonia.

115. Having consulted with the main parties to the Matignon Accords and various other groups in the Territory, the Committee observed that unlike in the previous visits, there was no immediate demand by any party consulted for independence in 1998. All parties expressed satisfaction with the progress of the implementation of the Accords.

116. The Committee noted a strong feeling and desire among the various groups and organisations consulted that whatever solution was agreed to, the Territory's linkages with France should continue.

117. The Committee observed that there was unanimous support for a negotiated solution to be implemented upon the expiry of the Matignon Accords, and therefore, the urgent need for the parties directly involved in the Accords namely, the FLNKS, the RPCR and the Government of France, to resume negotiations to find a solution that was acceptable to all the groups and communities living and residing in New Caledonia.

118. The Committee observed that the economic, political and social developments undertaken under the Matignon Accords seemed to have contributed to defusing the earlier tensions associated with the quest for independence. There has been relative peace and stability in the Territory, and the Provinces have benefited under the various provisions of the Accords.

119. The Committee heard, however, that the growing youth population, increasing immigration from France and unemployment could become a serious problem in the future if not addressed. The flat investment climate due to the political uncertainty was contributing to this. The possibility of civil unrest was also mentioned should an acceptable political solution not be found.

120. The Committee noted the important role played by the Customary Advisory Council in articulating and promoting the Kanak culture and custom. The Council advised authorities on customary matters relating to cultural, economic and social projects, on civil law and land rights as they affected the Kanak population. A major project, the Jean-Marie Tjibaou Cultural Centre, was due to be completed in early 1998.

121. The Committee noted the continued development of the infrastructure and other services in the Provinces including the building of roads, hospitals, schools, hotels and eco-tourism resorts and aquaculture and agriculture.

122. The Committee observed that notwithstanding the nickel smelter issue being made a prerequisite for the resumption of negotiations, there was optimism that the mining issue would not hinder the progress towards a negotiated solution on the political future of the Territory. The Committee noted further that the State- commissioned mining report expected to be made available on 15 September 1997 would enhance the progress in the negotiations.

123. The Committee observed that there were differing views on the interpretation of the French Constitution and the 1988 Referendum Act for a negotiated solution to be pursued by the parties concerned.

124. The Committee heard that voting in the 1998 Referendum would be confined to those who were resident in the Territory at the inception of the 1988 Accords and who had continued to live in the Territory. However, strong concerns were expressed on the implications of the large numbers of immigrants settling in the Territory since then,

particularly on future Provincial and Municipal elections, and effects on employment, as well as on the Kanak population.

125. In 1988, the Accords were signed by the three major parties at the time, that is, the FLNKS, the RPCR, and the State. However, since then, a number of sizeable parties have emerged. Once such party was the New Caledonia for All, which won seven seats in the South Province Territorial Assembly elections in 1995. These parties have expressed their desire to be consulted and be part of the negotiation process on the future of New Caledonia.

126. The Committee is pleased to report that the RPCR has accepted, for the first time, the Forum invitation to meet with the Leaders at the Twenty-Eighth South Pacific Forum in Rarotonga, Cook Islands. The FLNKS will also meet with the Forum Leaders in Rarotonga.

127. With regard to the Kanak Fellowship Fund, the Committee observed that there was a general lack of awareness by Kanaks of the existence of the Fund and the current arrangements were not conducive to efficient and effective utilisation of the Fund. To this end, the Committee used the opportunity to raise awareness on the existence of the facility. The report on the Kanak Fellowship Fund is attached as *Appendix A*.

PART V

RECOMMENDATIONS

128. The Forum Ministerial Committee on New Caledonia recommends :

(i) that the Forum reaffirms its support for the aspirations and goals of the people of New Caledonia, taking fully into account the wishes of the Kanak people;

(ii) that the Forum encourages all parties to continue to maintain their commitment to the Matignon Accords process including the promotion of the economic, political and social rebalancing programme in New Caledonia;

(iii) that the Forum urges all parties in New Caledonia to maintain their commitment to reaching a negotiated solution as a successor arrangement to the 1988 Matignon Accords that takes into account the wishes of all the communities in New Caledonia;

(iv) that the Forum continues to bring to the attention of the United Nations the question of New Caledonia's political future;

(v) that the Forum continues to promote and maintain contact with all communities in New Caledonia and that the Secretary General, wherever appropriate, continues to invite representatives from New Caledonia as

well as the other French Territories to Forum technical committee meetings and workshops;

(vi) that the Forum continues to provide assistance for the education and training of the people of New Caledonia and, in particular, the Kanak people. The Kanak Fellowship Fund serves this purpose and should be more widely publicised in the local media and among community and political groupings;

(vii) that the Forum members consider contributing additional resources to the Kanak Fellowship Fund in order to meet the expected increase in demands on the Fund;

(viii) that the Forum and the Forum Ministerial Committee on New Caledonia continue to monitor developments in the Territory until such time as a durable solution is found for New Caledonia;

(ix) that the Forum calls upon its members, including those with resident representations in Noumea, to circulate regularly information on developments in New Caledonia, particularly on progress on finding a negotiated solution on the political future of the Territory.

1 September 1997

Appendix A

REPORT ON KANAK FELLOWSHIP FUND
VISIT TO NEW CALEDONIA, AUGUST 1997

Following the visit of Mr Rock Wamytan, President of FLNKS on 13 May, the Secretary General suggested that an appropriate Secretariat officer visit New Caledonia to discuss the operation of the Kanak Fellowship Fund and one possibility was to join the Ministerial Committee, and have the opportunity to visit the provinces where there is probably the greater need for training. Accordingly an officer joined the Committee to discuss the Fund.

2. The Committee was useful as it gave the officer the opportunity to meet with a broad cross-section of the community, customary council, religious organisations, trade unions, community/provincial authorities, territorial representatives and political groups. Through these meetings, the officer developed contacts and a greater awareness by the Kanak of the existence of the Fund and it's operations.

3. The total funds of F$201,990 were provided by PNG ($151,990) and Fiji ($50,000) in 1992 to assist the social, economic and political development of Kanaks in New Caledonia through overseas training and educational opportunities, in areas which will serve to promote links between Forum countries and New Caledonia. As of date, there remains a balance of F$69,802.86 (34.5 per cent of the total funds).

4. Based on the discussions with officials of the FLNKS, and with relevant groups/individuals, organisations and the private sector, the following are to be noted: (i) the acknowledgment by the Kanak of the need for training of the Kanak population; (ii) the lack of awareness by Kanak of the existence of the Fund; (iii) the current arrangements of the Fund are not conducive to efficient and effective utilisation of the Fund and; (iv) the limitation of the Fund's Guidelines

5. To address some of the above issues, the Committee suggested that: (a)the use of the media and provincial/council/community meetings for greater awareness of the Fund; (b) that the other concerned parties (other than FLNKS) continue to channel applications through the FLNKS but to provide the Secretariat with a copy for necessary follow-up; and (c) that the concerns raised with respect to the Fund's Guidelines will be further actioned by the Committee.

6. It was clear from the discussions that the Guidelines for the Fund, to an extent, has attributed to the lack of requests. The majority of requests received by the FLNKS have been for longer-term training; for attendance at training courses as well as formal training, and for in-country training. These are in line with the findings of the November 1996 Review of the Fund.

7. To be able to accommodate the requests submitted under the Fund, required amendments to the Guidelines would be as follow: (a) extend the duration of training period from a maximum of three weeks to six months and; (b) extend the type of training eligible for support to include the recruitment of trainers/resource persons to undertake in-country training; and for attendance at training courses as well as formal training. The suggested amendments have been forwarded for Management's consideration.

8. It is expected that the funds would be fully-disbursed by the first quarter of 1998. Further contributions to the Fund would be tabled for discussions during the 1997 FOC Budget Session.

Appendix B

Visit to New Caledonia of a ministerial delegation from member countries of the South Pacific Forum 9 - 16 August 1997

Agenda

Saturday 9 August 1997

06:50 p.m.	Arrival of the Hon. Senator Filipe Bole, Minister for Foreign Affairs, Fiji, Mr Gyani Nand, acting Permanent Secretary for Foreign Affairs, Fiji, Mr Ponabe Yuwa, Counsellor, Papua New Guinea Embassy, Suva, and Mrs Amelia Siamomua, Donor Issues Officer, Forum Secretariat (flight SB 501 from Nadi)

Sunday 10 August 1997

03:45 p.m.	Arrival of Mr Benjamin Newyear, Permanent Secretary, Ministry of Foreign Affairs, Solomon Islands, Mr Bernard Bata'anisia, Chief of the South Pacific Regional Section, Ministry of Foreign Affairs, Solomon Islands, Mrs Andie Fong Toy, International Legal Adviser, Forum Secretariat (flight NF 061 from Port-Vila)
p.m.	Meeting of the delegations (internal coordination)
06:00 p.m. to 07:30 p.m.	Meeting with Mrs Julie Mackenzie, General Consul of New Zealand, and Mr Graeme Wilson, General Consul of Australia, Novotel Surf, room Wallis
09:40 p.m.	Arrival of the Hon. Titus Philemon, MP, vice-minister for foreign affairs, Papua New Guinea, and Mr Peter Eafare, acting Director General (Bilateral), Department of Foreign Affairs, Papua New Guinea (flight SB 151 from Brisbane)

Monday 11 August 1997

07:45 a.m.	Departure from the hotel by minibus
09:00 a.m.	Meeting with FLNKS (National Kanak Socialist Front of Liberation), Goro, Yate
01:30 p.m.	Departure from Goro to Noumea
03:00 p.m.	Call on the Right Reverend Monsignor Michel Calvet, New Caledonia's Archbishop
04 :30 p.m.	Call on the Reverend Wanir Welepane, President of the Evangelic Church of New Caledonia
06:00 p.m.	Meeting with Front National (National Front)

Tuesday 12 August 1997

07:50 a.m.	Departure from the hotel
08:00 a.m.	Call on Mr. Dominique Bur, Delegate of the French Government for New Caledonia and Wallis & Futuna, High Commissioner in New Caledonia (working breakfast + discussions)

10:45 a.m.	Meeting with Fédération Patronale (Employers' union)
02:00 p.m.	Meeting with UNCT (third political party)
04:00 p.m.	Meeting with the Customary Advisory Council, customary ceremony, discussion with the Board of the Customary Advisory Council
05:30 p.m.	Meeting with USTKE (one of the main workers' unions)

Wednesday 13 August 1997

06:20 a.m.	Departure from the hotel
06:45 a.m.	Take off for Mare
08:00 a.m.	Customary welcome by Mr. Paul Jewine, High Chief, President of Nengone customary area, at Eni
08:30 a.m.	Departure for Wabao
08:45 a.m.	Visit of the touristic site of Wabao (small tourist unit in tribe = gite)
09:00 a.m.	Visit of Nengone hotel, coffee break
09:45 a.m.	Departure for Tadine (administrative center)
10:00 a.m.	Welcome by the Mayor at the town hall (fare)
10:30 a.m.	Visit of Tadine secondary school
11:00 a.m.	Visit of Tadine medical center
11:30 a.m.	Departure for La Roche
11:50 a.m.	Welcome by Mr Nidoish Naisseline, president of the Loyalty Islands province
12:30 p.m.	Drinks offered by the Loyalty Islands province in honour of the Forum delegations
01:30 p.m.	Take off for Noumea from La Roche airport
02:45 p.m.	Arrival in Noumea
04:00 p.m.	Meeting with RPCR (Rally for New Caledonia in the Republic)
05:30 p.m.	Meeting with USOENC (main workers' union)

Thursday 14 August 1997

06:50 a.m.	Departure from the hotel
07:30 a.m.	Take off for Kone
08:30 a.m.	Welcome at Kone airport by Mr Léopold Jorédié, president of the North province, and Mr Bernard Guerin, representative of the French state to the North province
08:45 a.m.	Customary welcome at the province headquarters
09:00 a.m.	Call on Mr. Léopold Jorédié, president of the North province
10:15 a.m.	Departure for Foue prawns farm
10:30 a.m.	Visit of the hatchery of Foue prawns farm
12:00 p.m.	Take off for the South
12:30 p.m.	Visit of Mr Mazurier's farm in Bourail (South province). Mr Mazurier is president of the Chamber of Agriculture
01:45 p.m.	Take off for Noumea
02:15 p.m.	Arrival at Magenta airport
02:30 p.m.	Visit of Jean-Marie Tjibaou cultural center site. Welcome by Mrs Marie-Claude Tjibaou and Mr Octave Togna, respectively president and director of ADCK (Agency for the Development of the Kanak Culture)

05:00 p.m.	Press statement
08:00 p.m.	Official dinner hosted by Mr. Bur, Delegate of the French Government for New Caledonia and Wallis & Futuna, High Commissioner in New Caledonia, in honour of the Forum delegation

Friday 15 August 1997

06:30 a.m.	Departure of Mrs Siamomua for Port-Vila, flight SB 234 (leave hotel at 05:00 a.m.)
07:10 p.m.	Departure of Fiji and Forum Secretariat delegations, and Mr Yuwa for Nadi, flight SB 500 (leave hotel at 05:30 p.m.)

Saturday 16 August 1997

09:40 a.m.	Departure of the Solomon Islands delegation for Port-Vila, flight NF 62 (leave hotel at 08:00 a.m.)
01:55 p.m.	Departure of Mr Philemon and Eafare for Brisbane, flight QF 90 (leave hotel at 12:05 p.m.)

Appendix C

CURRENT POLITICAL ISSUES IN NEW CALEDONIA

Both to the Forum Ministerial Delegation which visited New Caledonia in August 1996 and to the 11th Spearhead Group Summit held in Fiji from 7 to 10 May this year, the FLNKS outlined the major issues of this very last period in the implementation of the Matignon Accords.

The issues are still the same today and their urgency is even more acute. The main matter of concern is the fact that resumption of discussions on the Territory's political future, which were broken off in mid-1996, today depends on resolving the problems that are currently standing in the way of the proposed building of a second metallurgical plant, in the Northern Province of New Caledonia.

1. The Territory's political future and future status

All the actors on the Territory's political and economic scene agree that the 1998 referendum will be of a most important stage for New Caledonia's future. We have already explained that this referendum, which was agreed to in 1988 at the request of the FLNKS, is not exactly an act of self-determination as defined by the United Nations Organization in that it is not an act that will sanction a process of preparation for and accession to independence.

Nevertheless, in all the years since 1946 this is the first time that the Territory has been governed by a statute* that clearly opens up the possibility of accession to independence. For the FLNKS, it is clear that the 1998 referendum must finally settle the issue of the Kanak people's right to self-determination, a right that has been formally recognized by the United Nations Organization and which the Kanak people, at the time of signing of the Matignon Accords, agreed to extend to the other communities living in the Territory.

a) Where do we want to go from here ? - Our political vision

First of all, we believe that without a shared clear political vision, the communities in New Caledonia will go on living separately, as was the case for many years and is still the case even today.

**Translator's Note* : *The French word « statut » means both « status » when indicating a position, and « charter » or « constitution » when indicating a set of rules (for an association) or a body of laws (for a non-independent country). In the latter sense I have translated the word as « statute » to avoid confusion with the French constitution.*

To find a way out of this situation, the only solution is for all the communities to rally around and work in with the Kanak people in order to lay the groundwork for a new sovereignty based on the legitimacy of the indigenous people. To our mind, this is the only honest and realistic vision of a common future and the only way of overcoming the permanent political uncertainty which has characterized our country's colonial history for over a century.

Our aim is therefore to win over a very large majority of the New Caledonian population to the idea that the 1998 referendum should start the process of our country's accession to independence, an independence that will, on the statutory level, take the shape of a State in association with France. We believe that such a statute can both satisfy the claims of the Kanak people through the establishment of a State, and reassure, through the provision for association, those citizens who still wish to maintain links with France.

In our view, the « associated State » statute will have to provide for our country's gradual disengagement from the French constitution and include sound guarantees to make this process irreversible. This is why we consider that the 1998 self-determination referendum should retain the character of a self-determination act.

This gradual disengagement from French trusteeship would take place over a period of time whose length remains to be determined. As far as the FLNKS is concerned, it should be as short as possible, for experience has shown that the interim period before full independence is always a very unsettled period politically.

The interim period would be used to bring about the gradual transfer of the attributes of sovereignty currently held by France to the new State about to be born. Retrocession of these areas of responsibility will of course need to be accompanied by the resources necessary for their management (financial resources in particular), not only because France has the historic duty to accompany us along the road to our emancipation and independence, but also because a people's emancipation under the conditions prevailing in this day and age requires partnership and co-operation with the former governing power.

For the FLNKS, 1998 should therefore be the starting point of an irreversible process, at the end of which Kanaky will be a fully independent and sovereign State. At this point, the statute and the institutions for the interim period will naturally need to be defined.

b) What kind of society do we want ? - Our vision of the future society

We declare, first of all, that our country is a Kanak country, for the specific features of the indigenous people must be taken into account in the institutions. The country has a name : Kanaky, and a flag, and it will have an anthem. The citizens of Kanaky will have Kanak nationality.

Kanaky has a French heritage. It is a French-speaking country. Its working language will be French. It will sign co-operation agreements with France.

It also belongs to the Melanesian group of countries and to the Pacific, becoming a member of the Melanesian Spearhead Group and the Pacific Forum. It will be a member of all regional organizations and join the Pacific group of ACP countries. It will of course have representation in the United Nations Organization.

Lastly, Kanaky will be a Democratic and Lay Republic that will protect universal suffrage, freedom of speech, of association, of thought and of religion. It will adhere to the United Nations Charter, the Universal Declaration of Human Rights and the Rio Earth Charter.

* Organization of State powers

The Kanak State will operate on the principle of the separation of legislative, executive and judicial powers.

* Breakdown of political and adminstrative levels of authority

The three levels of the decentralized system of government currently in force will be retained :

- national : a national assembly and a custom senate open to representatives of the socioprofessional categories ;
- regional : a deliberative assembly and a custom area council ;
- local : a deliberative assembly and custom representation .

The politico-administrative organization will need to be adjusted in response to justified special requirements. Le regional level must make provision for the custom organization which is divided into 8 linguistic areas.

As regards the exercise of the different types of responsibility, the excesses and the inadequacies of 10 years of decentralization will need to be corrected. The national institutions must be able to act freely at the national level without being dependant on regional policies, so as to avoid becoming ensnared in excessive regionalism. The mandate of the custom institutions is to manage, or co-manage within a framework yet to be defined, the natural heritage of the indigenous people.

* Economic and social organization

The present situation of being over-assisted and dependent on the outside, in particular on France, calls for a complete restructuring of our economy. A resolutely forward-looking policy is therefore essential, and the Kanak State will need to exercise control over :

- the exploitation and development of natural resources (mining, energy, marine resources...) ;

- the operation of air and sea transport and telecommunications.

The Kanak State will also have to set up appropriate development tools (a taxation system that is fair and provides incentives, a Development Bank,...), introduce rational income and salary policies, and control public expenditure.

A master plan will be drawn up to ensure that the overall policies implemented by the Kanak State are coherent. This plan will enable evaluation, promotion, regulation and distribution of the wealth generated.

Such are the main guidelines of the project for which the FLNKS hopes to rally the support of its partners in the Matignon Accords and of all the communities and driving forces of our country.

c) Negotiating strategy

It is up to France to settle the colonial dispute stemming from its takeover of our country in 1853. The FLNKS therefore considers that the solution should be negotiated first with France. As far as we are concerned, there is no realistic project save the one that we are proposing, which is accession to the status of a State in

association with France, and evolution of this status, by an irreversible process, to full sovereignty and independence.

This corresponds to the first stage of negotiations. The second stage will consist of political discussions, first between the three partners in the Matignon Accords, and then with the other political forces and the socioprofessional forces, on the basis of the political framework that will have been accepted, in order to fill in this framework.

In the negotiating process, we must be capable of give-and-take while preserving what is essential in our claim. It is clear in our mind that any compromise envisaged will have to remain within limits that are compatible with our claim, that is to say :

- Recognition of the indigenous reality, an absolute truth which must be acknowledged in order that the rights of Kanak people may be restored within the nation to be built. This acknowledgement must be reflected, at the very least, in the country's name, in the enhancement of the Kanak culture, and in the resolution of the land-related issues.

- Irreversibility of the process leading to sovereignty and independence, considering, firstly, the internationally recognized right of indigenous peoples to self-determination, and, secondly, the sacrifices made and the suffering endured by the Kanak people, as well as by the other communities who were victims of the colonial history.

The negotiations will require everyone to stretch their imagination so as to come up with a solution that can be subscribed to by all.

At this stage, converging views can be noted around certain principles :

- the need to redefine the links between New Caledonia and France;
- the idea that redefinition of these links must lead to an institutional arrangement involving, from 1998 onwards, shared sovereignty with France ;
- an arrangement that will bring about the country's emancipation, that is which allows the local people to assert their specific identity and more directly take charge of their destiny
- a period and a time schedule for retrocession to the Territory of the French State's areas of authority.

The negotiations will need to explore these issues in depth and, above all, reduce the gap between the many differing views that exist on others :

- whether to decide in 1998 on accession to independence upon completion of an irreversible process ;
- how long the interim period should be and what interim institutions should be set up ;
- what kind of powers should be transferred ;
- how these powers are to be organized ;
- how the country should be structured economically and sociallly..

Any light that the Forum institutions and/or its member countries may be able to throw on these issues would be very useful indeed for the FLNKS.

2) The Northern Province nickel plant : an economic lever for independence
No discussion can be undertaken as long as access to the mining resource required for the proposed nickel plant in the Northern Province has not been guaranteed. Access to the resource is to be secured through an exchange of nickel deposits between the companies ERAMET, which holds the Koniambo deposit, and SMSP, which owns the Poum deposit.

The FLNKS has already explained on previous occasions the importance of this industrial project from the point of view of the rebalancing decided by the Matignon Accords and for the country's overall development. Because of its size and its features, the project is of strategic importance, and its implementation, for which we are fighting, will give the country an additional economic lever to ensure the viability of the independence project which we are promoting at the political level.

Late last July in Paris, when the President of the FLNKS met with the new French Premier, Mr Lionel Jospin, the latter clearly stated his personal commitment to settling the issue of the Northern Province plant, so that discussions on the Territory's future might reopen at the earliest. However, he asked to be allowed some time to consider the project background in depth.

By the end of September the FLNKS therefore expects to be informed of the new government's position and intentions on this particular issue, as well as on the resumption of political negotiations.

Noumea, 11 August 1997

Appendix D

THE ENGLISH BOOKSHOP, B.P. 4242, 98847 NOUMEA CEDEX,
New Caledonia, S. PACIFIC
Tel : (687) 27 23 25 Fax: (687) 27 30 25

TO : 27 28 28 Cabinet - Coopération Régionale M. BAUDCHON DATE : 19/08/97
FROM : Phillida STEPHENS No. de pages : 1

Article 2 of Law No. 88-1028 of 9 November 1988 laying down statutory and preparatory provisions for the self-determination of New Caledonia in 1998 provides as follows :
"At a date (to be fixed) between 1st March and 31st December 1998, the peoples concerned in New Caledonia shall be invited to decide by means of an act of self-determination, in accordance with the provisions of Article 53 of the Constitution, whether the Territory should remain within the Republic or whether it should accede to independence.
Electors eligible to vote shall be those whose names appear on the Territory's electoral rolls at the time of the present consultation and who have been domiciled there since the date of the referendum adopting the present Law. Persons regarded as being domiciled in the Territory, even though they be absent for purposes of performing their National Service or following a course of study or training, are those who formerly had their "place of main residence" in New Caledonia."

Article 53 of the French Constitution :
"Peace treaties, commercial treaties, treaties or agreements concerning international relations, and treaties that involve the State's finances, those that modify existing legislation, those relating to the civil status of persons, those that entail transfer or exchange of, or addition to, the territory, may be ratified or approved only by virtue of a law
They shall not take effect until they have been ratified or approved.
No transfer or exchange of, or addition to, territory shall be valid without the consent of the peoples concerned.

Appendix E

Minister,
Ladies and Gentlemen, members of the Pacific Forum delegation

May I, on behalf of the Custom Council of the Territory, first of all extend a welcome to you and thank you for kindly agreeing to visit us, as you did last year, at a time when you doubtless have a very full programme of work.

Following the instructions of the Pacific Forum, you have once again come to New Caledonia to see for yourselves how the political process established since the signing of the Matignon accords is progressing.

Accordingly, while you could have decided to restrict your local contacts to the "historical" partners of the Matignon accords, you have once again chosen to extend your consultations to include all actors in the life of the Territory, economic and other, including the Custom authorities, and we sincerely appreciate this.

We are now nearing the end of the prescribed 10 years of application of those accords and at the present time we still do not know what the future holds for the country after 1998.

The Custom Council of the Territory sincerely hopes that discussions will soon resume and that they will lead to a negotiated solution - this being the solution on which there seems to be an almost general consensus.

The Referendum law that institutionalised Custom has proved, in application, to be somewhat restrictive in this regard and does not appear to correspond to the expectations of the Kanak people.

We realise of course that at the time of the signing of the Matignon accords the partners were concerned with other priority questions than definition of the rôle of the Custom authority in a changing society.

Now, such needs are becoming more clearly felt and they require a commitment on the part of all concerned to reflect on these questions and to seek appropriate solutions.

At a point in the history of New Caledonia which may well prove vital for the future of the Kanak people, it is essential that the Custom Authorities be involved in the debate that will define a new society. Who better than the Custom Council of the Territory can define the Kanaks' future?

Everybody now agrees that the rôle of the Custom Council of the Territory is undeniable and that it certainly has a part to play in connection with the future institutions.

This part might be played by the Custom authorities through a Senate, which would be called upon to legislate in matters coming within the scope of the custom authorities' competence, that is to say, questions of Land ownership and Special Civil Status.

In order to do this, however, we have to be able to say what we want for the future.

It was with this in view that, at the end of July 1997 in addition to our earlier work, the Custom Council of the Territory organized a great assembly, the Great Palaver, of representatives of the Custom areas of New Caledonia and resource persons who came from associations, different religious, political and economic persuasions and trade unions.

For three days we considered several major questions, including :

- Custom and development
- Land and Cadaster
- The place of women and of youth in traditional society
- Teaching, education and training
- Work and immigration
- The relationship between Custom and French Law
- etc.

The Custom Council of the Territory also set up, about two years ago, a project for a "Conservatory of the Yam", the purpose of which would be to ensure preservation, conservation and distribution of varieties of yam that are endemic to New Caledonia, where 150 species have been identified.

Furthermore, as part of its endeavours to further relations with the Territories and island States of the Pacific zone, since 1990 the Custom Council of the Territory has made a series of journeys taking its members to Fiji, Vanuatu, Wallis and Futuna. They have taken the opportunity of these visits to study the different systems of traditional and statutory organization in the countries visited.

In the near future, the Institutions Commission of the Custom Council of the Territory proposes to carry out visits of a similar nature to several states in Melanesia, Micronesia and Polynesia.

The expanded bureau of the Custom Council of the Territory intends, for its part, to go to Australia before the end of 1997 at the request of the Australian community of people of New Caledonian origin who wish to make contact with their Clans of origin.

The Custom Council of the Territory, cognizant of the fact that it is heir to a civilization older than a thousand years, aims to play a rôle that matches its past. This is an ambition to which all must give their backing.

Thank you.

Appendix F

THE LOYALTY ISLANDS PROVINCE

1. The Loyalty Islands Province is the least populated and the most isolated of the 3 Provinces of New Caledonia. Its total area is 1980 km^2.

Its population of around 21 000 is distributed in 3 island municipalities : Lifou numbering about 10 000 inhabitants, Maré about 7 000, and Ouvéa about 4000.

The population is very largely composed of Kanaks. The traditional way of life, organized around 16 custom districts headed by a chief, is therefore very strong and has shaped the Province's social structure and relations.

2. Loyalty Islands institutions

2.1 **The Province**, as an institutional entity, was established by the Matignon Accords. It is responsible for economic, social and cultural matters, as well as for health and primary education.
The Province's total budget for 1997 amounted to approximately 8 billion CFP francs, the operating budget being about 6 billion and the investment budget about 2 billion CFP francs.

2.2 **The 3 Municipal Districts** (Lifou, Maré, Ouvéa) are responsible for the people's everyday life and for local utilities and infrastructures. Each has a budget of just on 2 billion CFP francs, about two thirds of which are devoted to operating expenses and one third to investments.

2.3 **The 3 Custom Area Councils** (Ne Drehu, Nengone and Iaii areas) represent the Custom Authorities of each island. They are consultative bodies for custom- and land-related matters.

2.4 **The Delegate-Commissioner of the French Republic** for the Loyalty Islands Province represents the French State in the Province. Among other things, he is responsible for ensuring that local government bodies comply with the legislation and for maintaining law and order.

3. **The overall level of utilities and infrastructures** available in the L.I. Province is relatively satisfactory, even though there is still room for progress in some sectors. In the education sector for instance, there is a need for more secondary schools to arrest the drift to Noumea of the Islands' young people. Much remains to be done also in the sector of land and sea transport, to improve circulation of persons and goods between the islands of the L.I. Province and to the other Provinces.

As regards health care, there is a network of small medical structures (medical districts). They include facilities for hospitalisation, medical treatment and childbirth and ensure permanent access to health care in 5 different areas of the Province.

It must be underlined that the administrative decentralization authorized by the Matignon Accords was instrumental in enabling new public utilities and infrastructures to be set up in the

islands, and most of the funds made available for the first provincial legislature (1989-1995) were in fact allocated to this purpose.

4. The Loyalty Islands Economy is essentially a subsistence economy based on traditional agriculture. Nearly half of all Loyalty Islands households belong to the informal subsistence sector. For this category of the population, the L.I. Province has set up a system to assist socioeconomic integration, known as « Income for the Growth of the Loyalties » (in French « Revenu pour la Croissance des Loyauté » or R.C.L.). This system consists of providing families with an income equal to 90% of the local minimum wage, in return for 3 days' work a week either in an activity of value to the community, or in some business firm under a vocational training scheme.

The establishment of three Provinces that are fully responsible for their respective economic development has encouraged the emergence of cottage industries, small businesses and tourist-related activities. The implementation of economic projects conducive to development however still relies heavily on government participation, in particular through semi-public companies, since there are still very few private ventures except in trade.

For instance, in the 2 economic sectors regarded by the provincial authorities as being priority sectors in terms of the islands' development, i.e.Tourism and Fisheries, hotel projects (like « Nengone Village ») and export fisheries are managed by two Province-controlled companies, SODIL and NAVIMON.

In order to promote the development of private enterprise and generate employment in the islands, the Province has, in addition, set up a range of financial incentives for economic projects, especially productive projects. Three sets of incentives exist : grants for new ventures, aid to employment, and support to firms in difficulty.

5. The Matignon Accords have been of benefit to the Loyalty Islands Province in a number of ways :

- By making available substantial amounts of funds they have greatly improved the living conditions of the local people, through establishment of a network of basic utilities and infrastructures, implementation of social housing policies, and provision of adequate social security and health benefits.

- They have enabled local leaders to come to grips with the problems inherent in running public institutions and in handling municipal and provincial affairs. We still have a lot to learn in this regard, and the experiment is certainly worth pursuing and extending.

However, by putting a large mass of money into circulation, the Matignon Accords have also developed a reliance on handouts in a certain part of the population that had hitherto always been used to relying on itself and managing with its own resources.

Appendix G

CONSULTATION BY REFERENDUM IN 1998

From the results of the 1988 referendum and various significant consultations it is clear that the elect is relatively stable.

It is also clear that the result obtained in a referendum in 1998 will be totally different according t whether it is a "yes/no" or "chopper" consultation, for or against independence, or a consultation for purpose of confirming a negotiated consensual solution.

1988 REFERENDUM (Referendum Act)	NO	YES	ABSTENTION
	24%	32%	44%

PROVINCIAL ELECTIONS	VOTERS	LOYALISTS	INDEPENDENTISTS
1989	60,119	38,908	21,250
1995	78,212	43,800	26387

IN 1998
by extrapolation, in a YES/NO referendum :

	FRANCE	KANAKY
Votes cast	45,000	25,000
Percentages	64%	36%

By extrapolation, in a CONSENSUAL solution in 1998 :

15,000 divers loyalists will refuse the CONSENSUS
i.e. the National Front and various right-wing parties

A number of Independentists (Congrès Populaire "People's Congress")
and numerous non-registered voters will refuse the Consensus

For the Consensus : Loyalist vote	45,000 - 15,000	=	30,000
For the Consensus : Independentist vote		=	25,000

YES to the CONSENSUS 55,000

NO to the CONSENSUS 15,000

remainder : ABSTENTION (25%)

In the hypothesis of a "yes/no" referendum the result will confront a winner and a loser, the Independentist camp who will nevertheless maintain its inalienable right to independence : a situ similar to that pertaining prior to the Matignon accords.

In the hypothesis of a solution reached by consensus, a large majority of the two camps will confir referendum the negotiated solution. A fresh period of civil peace will begin that will be propitiou activi ies in favour of development and establishing a new balance.

Appendix H

PRESS STATEMENT

The South Pacific Forum Ministerial Committee on New Caledonia today completed its fact finding mission on the implementation of the Matignon Accords and related developments in New Caledonia, following a comprehensive four (4) day programme. The Forum Committee comprised representatives from Fiji, Papua New Guinea and Solomon Islands, assisted by officials from the Forum Secretariat. The Leader of the Ministerial Committee, Hon. Senator Filipe Bole, noted "that this was the fourth visit of the Committee, since its establishment in 1990, at the kind invitation of the Government of France".

The Forum Ministerial Committee will report its findings to the Forum Leaders at the 28th South Pacific Forum meeting in Rarotonga, Cook Islands in September. The Forum Ministerial Committee was mandated to maintain an active and vigilant observation of developments in New Caledonia including progress on social, economic and political developments in the Territory, and in the implementation of the 1988 Matignon Accords.

Senator Bole said "the Committee's mission in New Caledonia involved meeting with, and being provided with detailed briefings by a broad cross-section of the New Caledonia community, including the principal players of the Matignon Accords, namely the FLNKS, the RPCR and the Government of France."

In carrying out its mandate, the Committee also met with the Customary Advisory Council, religious organisations, trade unions, community groups, provincial authorities, territorial representatives and various other political parties active in the affairs of the Territory. Senator Bole said he was confident that the Committee had consulted widely and was satisfied that the Committee had carried out the task given to it by the South Pacific Forum.

The Ministerial Committee noted with satisfaction that there was some consensus emerging among communities in the Territory on its future given that the Matignon Accords signed by the three principal partners after the events of 1984 and 1988 was due to expire in 1998 and that a principal undertaking in the Accords was to conduct a referendum on self determination.

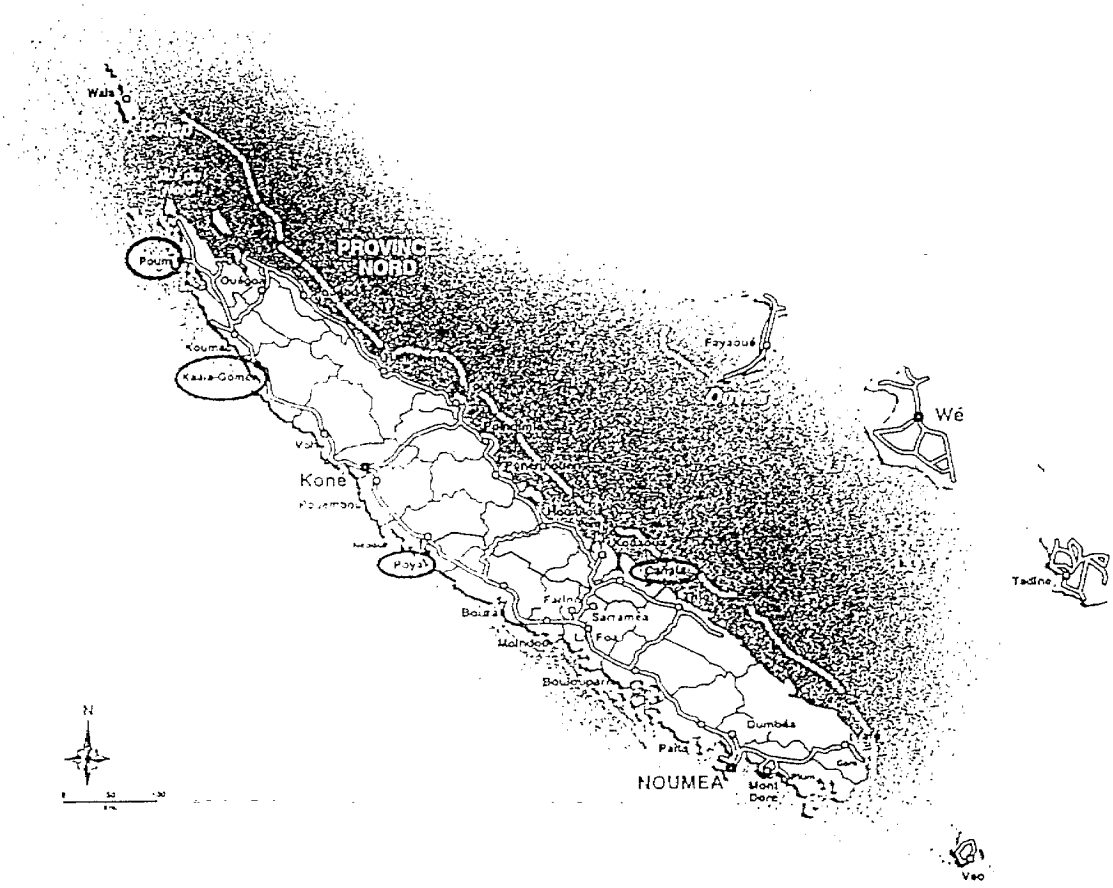
In its consultations, the Committee has maintained the position of the South Pacific Forum that the future and destiny of the people of New Caledonia can only be determined by the people of New Caledonia.

The Committee expressed its sincere hope that any decisions on the Territory's future will be all inclusive and for the betterment of all its people.

On the eve of their departure, the Committee expressed its gratitude and appreciation to the Government of France for its kind invitation and to the High Commissioner, HE Mr Bur, provincial, municipal and customary representatives and other organisations for the excellent programme and their warm and kind hospitality. The Committee would also like to thank all the numerous other people who have assisted in facilitating the mission and the media for its interest in the work of the Committee.

South Pacific Forum Ministerial Committee on New Caledonia
14 August 1997

Appendix I


Wala
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Poya
Bourail
Moindou
Boulouparis
Païta
NOUMEA
Mont Dore
Dumbéa
Fayaoué
Wé
Tadine
Veo
N

ACRONYMS

ADRAF	Agency for the Rural Development and Land Tenure
AUD	Australian dollar
CFP	Central Pacific Francs
DOM-TOM Minister	Minister for Overseas Departments and Territories
FF	French francs
FLNKS	Kanak Socialist National Liberation Front
MPF	Movement for France
MSG	Melanesian Spearhead Group
PALIKA	Parti de Liberation Kanake
RDO	Rassemblement Democratique Océanien
RPCR	Rally for New Caledonia in the Republic
SLN	Société Le Nickel
SMSP	Société Minere du Sud Pacifique
UC	Union Calédoniénne
UNCT	New Caledonia for Everybody
UPM	Union Progressite Mélanésienne
USOENC	Workers' and Employees' Union of New Caledonia
USTKE	Confederation of Kanak and Exploited Workers' Union