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IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF
INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

QUESTION OF THE COCOS (KEELING) ISLANDS

Report of the Secretary-General

1. At its thirty-eighth session, the General Assembly, by adopting decision 38/420 of 7 December 1983, authorized the Secretary-General, on the basis of his consultations, to appoint and dispatch a United Nations mission to visit the Cocos (Keeling) Islands in 1984 and requested him to submit a report on the findings of the visiting mission to the General Assembly at its thirty-ninth session.

2. In accordance with the above-mentioned decision of the General Assembly, the Secretary-General appointed, on 12 March 1984, the United Nations Visiting Mission to Observe the Act of Self-Determination in the Cocos (Keeling) Islands, 1984, consisting of representatives of Fiji, Sierra Leone, Venezuela and Yugoslavia.

3. Mr. Abdul G. Koroma, Permanent Representative of Sierra Leone to the United Nations and Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, served as the Chairman of the Visiting Mission. The delegations concerned designated the following representatives to serve on the Mission: Mr. Ratu Jone Filipe Radrodro (Fiji); Miss María Eugenia Trujillo (Venezuela); and Mr. Nebojsa Dimitrijević (Yugoslavia).

4. In pursuance of the same decision, the Secretary-General transmits herewith to the General Assembly for its consideration the report of the United Nations Visiting Mission to Observe the Act of Self-Determination in the Cocos (Keeling) Islands, 1984, received by him on 24 August 1984 from the Chairman of the Visiting Mission.

* A/39/150.

ANNEX

Report of the United Nations Visiting Mission to Observe the Act of
Self-Determination in the Cocos (Keeling) Islands, 1984

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
LETTER OF TRANSMITTAL		4
I. INTRODUCTION	1 - 14	5
A. Terms of reference	1 - 4	5
B. Composition of the Mission	5 - 6	5
C. Itinerary	7 - 10	6
D. Acknowledgements	11 - 14	6
II. INFORMATION ON THE TERRITORY	15 - 60	7
A. General description	15 - 27	7
B. Economic and social conditions	28 - 54	9
C. Constitutional and political developments	55 - 60	14
III. ACT OF SELF-DETERMINATION	61 - 96	15
A. Background	61 - 71	15
B. Legal framework	72 - 86	17
C. Political education	87 - 96	20
IV. ROLE AND ACTIVITIES OF THE MISSION	97 - 170	22
A. Meetings of the Mission at United Nations Headquarters	97 - 104	22
B. Discussions with the representatives of Indonesia, Malaysia and Singapore	105 - 109	24
C. Meetings of the Mission at Honolulu	110 - 111	25
D. Discussions held at Canberra on 2 and 3 April 1984 ..	112 - 130	25

CONTENTS (continued)

	<u>Paragraphs</u>	<u>Page</u>
E. Discussions held in the Territory	131 - 158	29
F. Discussions held at Perth and Canberra on 8 and 9 April 1984	159 - 170	35
V. ORGANIZATION AND CONDUCT OF THE REFERENDUM	171 - 185	37
A. Object of the referendum	171	37
B. Electoral roll	172	37
C. Appeals	173	37
D. Explanation of voting procedures and polling arrangements	174 - 176	37
E. Polling	177 - 178	38
F. Absentee voting	179 - 180	38
G. Results of the referendum	181 - 185	38
VI. OBSERVATIONS AND RECOMMENDATIONS	186 - 199	39

APPENDICES

I. Itinerary of the Mission in the Territory	44
II. The act of self-determination options paper for presentation to the Cocos Malay community, October 1983	46
III. The Territory of Cocos (Keeling) Islands: Referendum (Self- determination) Ordinance 1984	49
IV. Poster: "What to do on polling day"	62
V. Statement made by the Chairman of the Visiting Mission at Home Island on 5 April 1984	63
VI. Letter dated 27 April 1984 from the Minister for Territories and Local Government of Australia to the Chairman of the Cocos (Keeling) Islands Council outlining the proposals and commitments made by the Australian Government to the people of the Territory following the decision to integrate with Australia	65
Map: Cocos (Keeling) Islands	69

LETTER OF TRANSMITTAL

24 August 1984

Sir,

I have the honour to transmit herewith the report of the United Nations Visiting Mission to Observe the Act of Self-determination in the Cocos (Keeling) Islands, 1984. The report was approved by the Visiting Mission on 24 August 1984.

(Signed) Abdul G. KOROMA
Chairman of the Special Committee
on the Situation with regard to the
Implementation of the Declaration on
the Granting of Independence to Colonial
Countries and Peoples

His Excellency
Mr. Javier Pérez de Cuéllar
Secretary-General of the United Nations
New York

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I. INTRODUCTION

A. Terms of reference

1. In a letter dated 8 November 1983 addressed to the Secretary-General (A/38/695, annex), the Minister for Foreign Affairs of Australia stated that the people of the Cocos (Keeling) Islands, through their leaders, had formally advised the Australian Government that they were ready to participate in an act of self-determination to decide their future political status. Accordingly, the Minister wished to extend through the Secretary-General an invitation for a United Nations mission to observe the act of self-determination, the date of which would be determined on the basis of further discussions among the concerned parties.
2. By a further letter dated 6 December 1983 (A/38/695), the Permanent Representative of Australia to the United Nations informed the Secretary-General that the Australian Government expected to conduct the act of self-determination during 1984, and requested that the necessary steps be taken during the thirty-eighth session of the General Assembly to enable the Secretary-General to proceed, in consultation with the Australian Government, with the appointment and dispatch of a United Nations mission to observe the act of self-determination.
3. By its decision 38/420 of 7 December 1983, the General Assembly authorized the Secretary-General, on the basis of his consultations, to appoint and dispatch a United Nations mission to visit the Cocos (Keeling) Islands in 1984. It further requested the Secretary-General to report on the findings of the Visiting Mission to the General Assembly at its thirty-ninth session.
4. Accordingly, the Secretary-General appointed the members of the United Nations Visiting Mission to Observe the Act of Self-Determination in the Cocos (Keeling) Islands (see para. 5), and requested the Mission to carry out its mandate in accordance with the relevant principles and practices of the United Nations.

B. Composition of the Mission

5. The Mission was composed of the following members:

Abdul G. Koroma (Sierra Leone), Chairman
Ratu Jone Filipe Radrodro (Fiji)
María Eugenia Trujillo (Venezuela)
Nebojsa Dimitrijević (Yugoslavia)

6. The Mission was accompanied by the following staff members of the United Nations Secretariat: Mr. Nour Eddine Driss, Principal Secretary; Mr. Sarbuland Khan, Senior Political Affairs Officer; Mr. Steven Gleason, Political and Administrative Officer; and Mrs. Janet O. Hizon, Secretary.

C. Itinerary

7. The Mission arrived in Honolulu from New York on 27 March 1984. It held meetings in Honolulu on 28 and 29 March before proceeding on 30 March to Sydney, where it arrived on 31 March after having crossed the International Date Line. At Sydney the Mission held further meetings and then proceeded on 2 April to Canberra, where it met upon arrival with Mr. William Hayden, the Minister for Foreign Affairs, and held a detailed working session with the Secretary and other officials of the Department of Foreign Affairs, as well as officials of other departments of the Australian Government. On the same evening, the Mission attended a dinner hosted by Mr. Tom Uren, the Minister for Territories and Local Government.
8. On the morning of 3 April, the Mission called on Mr. Bob Hawke, Prime Minister of Australia, and Sir Ninian Stephen, the Governor-General, before flying to the Territory via Perth aboard an aircraft provided by the Australian Government.
9. The Mission's itinerary in the Territory from 3 to 8 April is set out in appendix I to the present report. While returning to Canberra on 8 April, the Mission stopped at Perth for discussions at the airport with members of the Cocos Malay community residing in Western Australia. On 9 April, the Mission held further discussions with the Minister for Territories and Local Government and attended a dinner hosted by Mr. Charles Mott, Assistant Secretary of the Department of Foreign Affairs.
10. Having completed its programme in Australia, the Mission proceeded on 10 April to Bangkok, where it stayed until 13 April to work on the formulation of its report.

D. Acknowledgements

11. The Mission wishes to record here its deep gratitude to the Australian Government for its full co-operation and ample assistance. Sir Ninian Stephen, the Governor-General of Australia, Mr. Bob Hawke, the Prime Minister, Mr. William Hayden, the Minister for Foreign Affairs, Mr. Tom Uren, the Minister for Territories and Local Government, and senior officials of their respective offices and departments extended warm hospitality and courtesy to the Mission in Canberra. The Mission further wishes to express its particular gratitude to the officials of the Australian Government who accompanied it during its visit to the Territory, including Messrs. John Enfield, Rod Calvert and Gerry Byrnes of the Department of Territories and Local Government; Mr. Mike Gallagher of the Office of the Minister for Territories and Local Government; Messrs. Charles Mott, Donald Dobbinson and Leslie Rowe of the Department of Foreign Affairs; and other senior officials whose helpful attitude and knowledge of the situation in the Territory contributed to the successful accomplishment of the Mission's mandate.
12. The Mission wishes to convey its appreciation to Mr. Kenneth Chan, Administrator of the Territory, and to Mrs. Chan and the Administrator's staff for the hospitality and assistance extended to the Mission as it set about its task in the Territory. The Mission is also indebted to Mr. Dick Whittington, Cultural Adviser to the Cocos Malay community, for his invaluable assistance in facilitating communication with the Cocos Malay people.

13. The Mission also wishes to express its warm appreciation to the members of the Cocos Malay community on Home Island, who received the Mission most graciously and conveyed on a number of occasions their full trust and confidence in the Mission and the United Nations. The Mission is particularly grateful to Mr. Parson bin Yapat, Chairman of the Cocos (Keeling) Islands Council, and Mr. Cree bin Haig, Chairman of the Management Committee of the Cocos Islands Co-operative Society, Ltd., for providing it with invaluable insights into the needs and aspirations of the community. The same appreciation is extended to the Cocos Malays who travelled to Perth Airport from various points in Western Australia in order to convey to the Mission the sentiments of the Cocos Malay community residing on the mainland.

14. The Mission wishes to express its appreciation to Mr. Paul Ignatieff, Director of the United Nations Information Centre at Sydney, for the hospitality and assistance extended to the Mission during its stay in that city. Finally, the Mission is deeply indebted to Mr. Shah A. M. S. Kibria, Executive Secretary of the Economic and Social Commission for Asia and the Pacific (ESCAP), for having made facilities available to the Mission in Bangkok for the expeditious preparation of its report.

II. INFORMATION ON THE TERRITORY

A. General description

15. The Territory of the Cocos (Keeling) Islands is situated in the Indian Ocean, at latitude 12° 05' south and longitude 96° 53' east, approximately 2,770 kilometres north-west of Perth and 960 kilometres south-west of Java Head, the western extremity of Java, Indonesia (see map). It consists of small coral islands forming two separate atolls and has a total area of about 14 square kilometres. North Keeling Island forms the northern atoll, while the main atoll situated 24 kilometres to the south is a chain of islands, principally West, South, Home, Direction and Horsburgh Islands. West Island, which is approximately 10 kilometres long and about half a kilometre wide, is the largest of the group.

16. West Island and Home Island, in the southern group, are the only islands inhabited. Other islands are visited periodically. North Keeling Island has a shallow, sandy lagoon occupying most of its interior. There is one landing point on the island, where small craft may be beached.

17. The climate in the Territory is moderate and influenced by the south-east trade winds for about nine months of the year. Soil on the islands is mainly a composition of coral clinker. There is no fresh surface water on either atoll but on Home, West and Horsburgh Islands and at the southern end of South Island, fresh water exists in underground reservoirs, uncontaminated by the sea, and can be reached by sinking relatively shallow wells.

18. According to the administering Power, the population at 30 June 1983 stood at 559, of whom 354 were Home Island residents and 205 West Island residents. With a few exceptions, the Home Island residents are Cocos Malays, while the West Island residents are Australian-based employees on postings of one or two years. From

1 July 1982 to 30 June 1983 there were 10 births and no deaths in the Cocos Malay community.

19. The Cocos Malay community has been formed from the descendants of the original settlers brought to the islands in 1826, labourers introduced between 1827 and 1831 by Captain John Clunies-Ross (see paras. 21-22) and a number recruited in later periods. Although the people are generally of Malay origin, a number trace their ancestry to East Africa, China, Java, India and Ceylon. Today's Cocos Islanders are Muslim by tradition and speak a local dialect of Malay.

20. North Keeling, the isolated northern atoll of the Cocos (Keeling) group, is believed to have been discovered in 1609 by Captain William Keeling of the East India Company. By the mid-seventeenth century, the whole group had been charted. The islands were uninhabited until 1826, when the first settlement was established on the main atoll by an Englishman named Alexander Hare.

21. In 1827, Captain John Clunies-Ross, a Scottish seaman and business associate of Hare, brought a number of Malays to the islands and formed a second settlement. Mr. Hare and Captain Clunies-Ross both claimed ownership of the islands, but Mr. Hare returned to Java in 1831 and Captain Clunies-Ross was left in sole possession. He imported more labour and set about improving the coconut trees already growing there.

22. The islands were formally declared part of the British Dominions in 1857, and the following year responsibility for the supervision of the islands was vested in the Government of Ceylon, but transferred to the Government of the Straits Settlement in 1886. On 7 July 1886, a Royal indenture granted "in perpetuity" all land on the islands above the high-water mark to Mr. George Clunies-Ross (the grandson of the founder) and his heirs, reserving to the Crown the right to resume possession of any or all parts of the land for public purposes and prohibiting its alienation without the prior sanction of the Crown. The islands became a Territory of Australia by an Order-in-Council made by Queen Elizabeth II under the Cocos Islands Act, 1955, of the United Kingdom of Great Britain and Northern Ireland and by the Cocos (Keeling) Islands Act, 1955, a/ of Australia.

23. By the end of the Second World War, the number of Cocos Malays was far greater than the Clunies-Ross estate could maintain. Between 1948 and 1951, their numbers were reduced by about two thirds when over 1,600 of the islanders were resettled under a controlled migration scheme at the joint expense of the Clunies-Ross estate and the Government of Singapore. Most settled in North Borneo (now Sabah State, Malaysia), but some joined relatives in Singapore or accepted employment on Christmas Island. In 1958, a further 109 Cocos Malays emigrated to Christmas Island and many of these subsequently moved to Australia. In 1975, a considerable interest developed in direct migration to Australia, and by 1978 some 46 per cent of the mid-1975 population had left the Territory. There has been little movement from the Territory since June 1978. Since 30 June 1979, the return of Cocos Malays from Singapore, Australia and Malaysia has increased the Cocos Malay population by 9 per cent.

24. On 31 August 1978, the Australian Government purchased from Mr. John Clunies-Ross, heir to the estate of the founder, the whole of his property interests in the Territory with the exception of the Clunies-Ross family residence on Home Island and a surrounding tract of land measuring some five hectares. In the following year, the administering Power transferred ownership of the village area of Home Island to the Cocos (Keeling) Islands Council, while leasing the plantation lands to the Cocos Islands Co-operative Society, Ltd. at a nominal rental (see paras. 31 and 57-58).

25. In July 1983, the Government announced its intention to acquire the remaining property of the Clunies-Ross estate for the purpose of the political, social and economic advancement of the Cocos Malay people. Mr. Clunies-Ross took legal action to resist the proposed acquisition and the case is expected to be settled by the High Court of Australia before the end of 1984.

26. All persons born in the Cocos (Keeling) Islands on or after 23 November 1955 (the date on which the islands were transferred to Australia) are Australian citizens. Under the Cocos (Keeling) Islands Act, 1955, as amended, persons who were ordinarily resident in the Territory immediately before 23 November 1955, who are now ordinarily resident in Australia or an external Territory of Australia, and who wish to take up Australian citizenship, may do so by making a declaration to that effect. With few exceptions, the Cocos Malays living in the Cocos (Keeling) Islands are now Australian citizens.

27. At the invitation of the Government of Australia, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples dispatched visiting missions to the Territory in 1974 and 1980. An account of the Special Committee's consideration of the reports of the Visiting Missions b/ is contained in its reports to the General Assembly at its twenty-ninth and thirty-fifth sessions, respectively. c/

B. Economic and social conditions

1. General

28. The commercial life of the Territory is based principally on the production and export of copra and contract work for building maintenance and repairs undertaken for the government authorities and the Shell Company (Pacific Islands), Ltd.

29. The Australian Government has sponsored a number of studies on potential means of diversifying the Territory's economy in order to improve its long-term viability. A fisheries expert of the Australian Bureau of Agricultural Economics visited the Territory in February 1983 to investigate the feasibility of developing a mariculture industry based on clam cultivation. Although the preliminary findings suggested that the marine environment was capable of producing good returns, the possibility of recurring algal bloom pollution cast some doubt on the feasibility of the enterprise.

30. The Government has also investigated vegetable production, pasture crops and goat raising. It is currently seeking a consultant to undertake a wide-ranging investigation of the economy in order to identify industries which could be developed to reduce imports and create additional income.

2. Co-operative Society

31. The Cocos Islands Co-operative Society, Ltd., created on 16 January 1979, has some 150 members and is administered by a Management Committee of eight members elected for two-year terms. The sixth Management Committee, presided over by Mr. Cree bin Haig, was elected on 17 September 1983. The Co-operative Society operates the copra plantation, which it leases from the Australian Government; undertakes contract work for the government authorities and the Shell Company; provides a work force for the loading and unloading of ships; and runs a shop on Home Island which carries imported foodstuffs, clothing and a variety of other goods. The Co-operative Society distributes its profits annually to its members in consultation with the Islands Council (see paras. 57-58), with a certain amount retained within the business. According to the administering Power, the Co-operative Society registered net profits of approximately \$A 213,000 d/ in 1981/82 and \$A 452,000 in 1982/83. The Australian Government provides a Co-operative Adviser and an Assistant Adviser to assist the Co-operative Society in its day-to-day work.

32. In October 1983, the administering Power transferred operation of the provisioning, catering and accommodation services in the Territory from an Australian government body to the Co-operative Society. The purpose of the transfer was to offer the Co-operative Society opportunities for increasing its income as well as acquiring additional management skills.

3. Agriculture and livestock

33. The main cash crop grown in the Territory is coconut, which is processed to yield copra. The copra is produced by hot-air drying methods and is sold in Singapore. In 1982/83, exports amounted to 165 metric tons.

34. Because of limitations imposed by soil quality, almost all of the Territory's fresh fruit and vegetables are imported, with a regular supply arriving on the fortnightly air charter service (see para. 39). However, some vegetables and fruits are grown on Home Island.

35. An animal quarantine station on West Island was officially opened on 5 November 1981 and has been fully operational since the arrival of the first shipment of cattle from North America on 30 November 1981. The station, which can accommodate 120 head of adult cattle at a time, was built by the administering Power at a cost of \$A 6.4 million for cattle en route to Australia and is controlled by the Australian Department of Health.

36. Two Cocos Malays are employed at the station, where they receive training and work experience in livestock management and agriculture. The Australian Government has stated its commitment to hiring more Cocos Malays and increasing their role in the management of the station as they acquire the necessary skills and education levels.

4. Transport and communications

37. Postal services are provided by the Cocos (Keeling) Islands Postal Service, established on 3 September 1979. Profits from the Postal Service are paid to the Cocos (Keeling) Islands Council for the benefit of the community at large.

38. Imports are admitted free of customs duty. The Cocos (Keeling) Islands Act exempts from customs duty goods which are imported into Australia from the Territory, provided that the goods: (a) are the produce or manufacture of the Territory; (b) have been shipped to the Territory for export to Australia; or (c) are not goods which, if manufactured or produced in Australia, would be subject to a duty or excise tax.

39. The Australian Department of Transport operates an airport, which has full radio facilities, on West Island. The Administrator is the licensee of the airport. A charter service for passengers and freight, following a Perth/Cocos (Keeling) Islands/Christmas Island/Perth route, is conducted on a fortnightly schedule. Cocos Malays are entitled to half fare on the air charter, and an average of 10 per month visit the mainland.

40. The Australian Government arranges a shipping service to the Territory from Western Australia at intervals of several weeks. The ships carry cargo for the Co-operative Society and other consignees in the Territory, and often proceed to Singapore carrying copra consigned by the Co-operative Society. Because there is no wharf where ships can berth, vessels discharging cargo anchor in the main atoll lagoon, generally at buoys owned by the Shell Company. Only ships of limited draught can anchor in the lagoon.

41. It will be recalled that the 1980 Visiting Mission noted in its report (see A/AC.109/635, para. 201) that, despite actions taken by the Australian Government to enable the Cocos Malay community to become more independent in its political and social life, some degree of interdependence, particularly in the economic field, continued to exist between the community and the Clunies-Ross estate. The Mission expressed the view that that interdependence should be discontinued.

42. After the 1980 Mission's visit, the Co-operative Society expressed particular concern to the administering Power over the control of shipping by Mr. Clunies-Ross. In February 1984, the Australian Minister for Territories and Local Government informed the shipping agent handling Mr. Clunies-Ross' shipping interests that the Australian Government had decided not to enter into further contracts with Mr. Clunies-Ross or with companies in which he had a major interest, and which involved the Cocos (Keeling) Islands. The Minister expressed the belief that contracts of that nature had adverse effects on the Government's programmes for the political, social and economic advancement of the islanders.

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5. Public finance

43. Expenditure on administration and on capital works and services is financed from moneys appropriated for the Australian government departments represented in the Territory. Some revenue is derived from hospital and medical fees, aircraft landing and handling charges and miscellaneous sources. Expenditure by the Administration has increased steadily in recent years from \$A 2.5 million in 1977/78 to an estimated \$A 5.8 million in 1982/83, due largely to the impact of policies for the benefit of the Cocos Malay community and to inflation of the Australian currency.

6. Labour

44. The constitution of the International Labour Organisation (ILO) provides for ILO members to declare conventions which they have ratified to be applicable to the non-metropolitan Territories for which they are responsible. While Australia has not yet made any declarations in respect of the Cocos (Keeling) Islands, the conventions are being examined in the light of recent changes in community arrangements, for their possible application to the Territory.

45. At 30 June 1983, the weekly wage rates of the Co-operative Society ranged from \$A 29.00 for copra processors under 18 years of age to \$A 54.00 for senior supervisors. Information on training and apprenticeship programmes can be found in paragraph 53 below.

7. Housing and other amenities

46. The dwellings on Home Island, consisting of two rooms with a detached kitchen, are solidly constructed of pre-fabricated concrete. The Home Island kampong (residential area) forms part of the land purchased by the Australian Government in August 1978 and transferred to the Islands Council in 1979 (see para. 24). In December 1983, the administering Power announced its intention to implement a development plan for Home Island that would include construction of a community centre/cyclone shelter and progressive replacement of the Cocos Malays' houses.

47. Fresh water is provided on Home Island and West Island by wells that tap underground reservoirs; these are supplemented by rainwater tanks. A project started in June 1980 to augment water reticulation and install a sewage system on Home Island is now near completion.

8. Public health

48. The Australian Government provides free health care to all members of the Cocos Malay community. A government medical officer and three nursing sisters attached to the Administration provide medical attention for the Home Island community and for all staff and their dependents on West Island. A Malay-speaking nursing sister is resident on Home Island, where she conducts public health and hygiene programmes. The Australian Government maintains a four-bed hospital on

West Island. It is equipped to handle most surgical and medical emergencies and contains a small air-conditioned operating theatre, an X-ray unit and a clinical pathology laboratory. A dental team from the Western Australian Department of Health and Medical Services visits the Territory each year, and an eye specialist is engaged periodically by the Australian Government to survey the optical health of the Cocos Malays and to arrange any necessary treatment.

49. Patients requiring treatment beyond the scope of the medical facilities in the Territory are evacuated to Perth. During 1982/83, nine patients were transferred to the mainland for specialized medical and dental treatment.

9. Education

50. On 14 August 1980, an ordinance was enacted which provided, among other things, for free compulsory education for children between the ages of 6 and 15 years. There are two schools in the Territory, a primary school on Home Island and a combined primary and secondary school on West Island. Cocos Malay students of secondary school age are transported daily to classes at the West Island school.

51. The Home Island school is staffed by two teachers seconded from the Western Australia Department of Education and three Cocos Malay assistant teachers trained in Perth. At 30 June 1983, 43 children were enrolled in the school. The curriculum includes instruction in Cocos Malay language skills and places special emphasis, within the social studies syllabus, on the geographic setting of the Territory and the role of the United Nations and its agencies.

52. The West Island school has a staff of six full-time and two part-time teachers, one part-time teachers' aide and one Cocos Malay assistant teacher. Cocos Malay is taught as a support language to the Cocos Malay secondary students. The syllabus is the same as that of the Western Australia Department of Education, with the addition of Cocos Malay oral history and traditional poetry. Extracurricular classes are offered in wood-carving, cooking and sewing, and there is also a work-experience programme for students in years 8 to 10.

53. In January 1983, the Australian Government began offering bursaries for Cocos Malay students to complete years 11 and 12 of their secondary education on the mainland. By 1984, 10 students were attending senior high school in Western Australia. The administering Power also provides assistance for the training of apprentices, some of whom are attached to the government housing and construction unit in the Territory while others attend technical college and receive practical training in Western Australia. In addition, a marine training programme has been instituted to upgrade the skills of Cocos Malay boatmen.

54. Adult education classes in basic literacy and conversational English were introduced in December 1979 and since June 1981 have been the responsibility of the Islands Council. The adult education programme also includes radio broadcasts in Cocos Malay of local news, notices to the community from the Co-operative Society and the Council and a weekly summary of international news.

C. Constitutional and political developments

1. General

55. The basis of the Territory's administrative, legislative and judicial systems is the Cocos (Keeling) Islands Act, 1955, a/ as amended. The Act, which was formerly administered by the Australian Minister for Home Affairs and Environment, is now administered by the Minister for Territories and Local Government. The Act empowers the Governor-General of Australia to make ordinances for the peace, order and good government of the Territory. Ordinances are required to be tabled in the Australian Parliament and are subject to disallowance in part or in whole by the Parliament. Generally, acts of the Australian Parliament do not apply to the Territory unless specifically indicated. The Territory is administered by an official appointed by the Governor-General under the Administrative Ordinance, 1975.

2. Legal system

56. The courts with jurisdiction in the Territory are: the Supreme Court of the Territory of Cocos (Keeling) Islands, the District Court, the Magistrate's Court and the Coroner's Court. Under the Supreme Court (Amendment) Ordinance of 1982, appeals from the Supreme Court of the Territory are heard by the Federal Court of Australia. There were no cases for hearing by any of the courts in 1982 or 1983.

3. Local government

57. Under the Local Government Ordinance, 1979, the elected interim Advisory Council became the first Cocos (Keeling) Islands Council on 25 July 1979. The fourth Council was elected on 22 October 1983 by Cocos Malay residents aged 18 years and over; its Chairman is Mr. Parson bin Yapat. The Ordinance provided for the Council to have responsibility for a wide range of functions in the Home Island village area, to advise the Administrator on any other matter affecting the Territory and to comment on all proposed legislation for the Territory.

58. During 1982, an amendment to the Local Government Ordinance was enacted which (a) created a municipal area on Home Island, including both the kampong and the site of the Co-operative Society, for local government purposes; and (b) defined and extended the Council's powers and procedures relating to the preparation and enactment of by-laws. The Australian Government has agreed to provide a Council Adviser from Australia to assist and advise the Council on its responsibilities, powers and jurisdictions.

4. Future status of the Territory

59. The views of the Australian Government regarding the future status of the Territory were expressed to the 1980 Visiting Mission (see paras. 61-62) and reiterated in subsequent statements before the Fourth Committee and the Special Committee. e/ On those occasions, Australia emphasized that it was continuing to

make every effort towards achieving, as quickly as possible, conditions that would enable the people of the Territory to exercise fully and freely their fundamental rights, including their right to self-determination, in accordance with the relevant resolutions of the General Assembly and the principles of the Charter of the United Nations. To that end, the Australian Government was promoting the political, social, economic and educational advancement of the people in keeping with its obligations under Chapter XI of the Charter. Australia stressed its belief that it was for the people of the Territory themselves to determine the political status they desired in accordance with the relevant resolutions of the United Nations and to decide when they wanted an act of self-determination to take place.

60. The political developments leading to the holding of the act of self-determination on 6 April 1984 are reviewed in the following chapter.

III. ACT OF SELF-DETERMINATION

A. Background

61. In a series of discussions held at Canberra on 7 July 1980 (see A/AC.109/635, paras. 89-120), representatives of the administering Power informed the 1980 Visiting Mission that the Australian Government was taking steps to ensure that the people of the Territory would be in a position to decide their own political future. It was, however, not only a matter of political awareness, but also of a necessary degree of education, the promise of economic viability and the development of the culture of the people and their culture identity. The Australian Government had taken measures in all those directions.

62. In response to questions put by members of the Mission, the representatives replied that the Australian Government's policy was to bring the people to a level of political and social maturity sufficient to enable them to exercise their right to self-determination. In that regard, economic viability was an important consideration, and the Australian Government would continue to seek to develop and broaden the base of the Territory and to involve the people in that process. In determining the nature of the act of self-determination, the administering Power would be guided by the wishes of the local population. In that connection the Australian Government intended to continue to work closely with the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

63. During a trip to the Territory in November 1982, Mr. Tom McVeigh, Minister for Home Affairs and Environment in the Liberal/Country Party Government then in power, discussed with the community leaders the possibility of holding a referendum to determine the political status desired by the people. In the course of the discussions, the Minister described the general elements of the three options which would be presented to the community in accordance with the provisions of General Assembly resolution 1541 (XV) of 15 December 1960, namely: (a) emergence as an independent sovereign State; (b) free association with an independent State; or (c) integration with an independent State.

64. After preliminary consideration of those options by the community, the Chairman of the Cocos (Keeling) Islands Council wrote to the Minister on 13 December 1982 indicating that the community believed it could not proceed towards the making of the act of self-determination in full confidence without knowing what the Australian Government intended to do about the presence of Mr. Clunies-Ross in the Territory. The Chairman stated that, despite the Government's acquisition of the bulk of Mr. Clunies-Ross' land in 1978 (see para. 24), Mr. Clunies-Ross continued to interfere in the affairs of the community and to wield undue influence in economic matters such as shipping, employment and the provision of goods. The community therefore wished to know what steps the Government was prepared to take to give effect to a motion passed by the Council in 1981 calling for Mr. Clunies-Ross' removal from the Territory.

65. Elections for the Australian Parliament in March 1983 resulted in the installation of a new Labour Party Government under the leadership of Mr. Bob Hawke. Responsibility for the Cocos (Keeling) Islands fell to Mr. Tom Uren, the new Minister for Territories and Local Government.

66. Mr. Uren travelled to the Territory in April 1983 to ascertain the wishes of the community and its leaders in relation to all matters affecting their future, including their attitude to Mr. Clunies-Ross. In light of the views expressed to him during his visit, the Minister recommended that the Government acquire the remainder of Mr. Clunies-Ross' property interests under the provisions of the Lands Acquisition Act and turn the land over to the Council, which would have the practical effect of removing Mr. Clunies-Ross from the Territory. As noted above (see para. 25), the Government's effort to acquire the property became the subject of a court case which has yet to be resolved.

67. In September 1983, the leaders of the Cocos Malay community informed Mr. Uren of the community's readiness to undertake an act of self-determination and requested him to make the necessary arrangements. In October, Mr. Uren presented to the community a statement concerning the three options that would be presented to the people in accordance with General Assembly resolution 1541 (XV) (see appendix II to the present report).

68. Briefly, the statement indicated that if independence were chosen, the Cocos Malay people would be completely responsible for all aspects of their lives, including foreign affairs and defence.

69. Under free association, the Cocos Malay community would negotiate an agreement with Australia whereby the latter would take responsibility for all matters relating to defence and relations with the outside world, while internal government, revenue-raising and the provision of services would be undertaken by the community itself.

70. If integration were chosen, the Cocos Malays would continue to be Australian citizens and would have all the rights and obligations associated with that status, including the obligation to pay taxes once the income level rose to the taxable threshold. The Australian Government would commit itself to raising the services and standard of living in the islands to the levels prevailing in Australia, in as

short a time as possible. The Government would place particular emphasis on education and economic diversification as a means of advancing the islanders' social and economic status, while continuing to respect their cultural and religious traditions. All appropriate Australian laws not already in force would be extended to the Territory, including social security and health legislation. The powers and jurisdiction of the Cocos (Keeling) Islands Council would be expanded so as to provide the greatest measure of self-government compatible with the Territory's status as an integral part of Australia.

71. During the thirty-eighth session of the General Assembly, the Australian Government informed the United Nations of its intention to conduct an act of self-determination in compliance with the request of the Cocos Malay community, and to invite a United Nations mission to observe the act (see paras. 1-2). Subsequently, arrangements were made to hold the act of self-determination on 6 April 1984.

B. Legal framework

1. International instruments

72. The international legal framework for the act of self-determination in the Cocos (Keeling) Islands was provided by the Charter of the United Nations, in particular its Article 73 e, by the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, and by Assembly resolution 1541 (XV), all of which guided the Mission throughout the accomplishment of its mandate. As described in paragraphs 1-3 above, the legal basis for the Mission's involvement in the act of self-determination was General Assembly decision 38/420, by which the Assembly authorized the Secretary-General to appoint and dispatch a United Nations mission to visit the Cocos (Keeling) Islands in 1984, and also requested the Secretary-General to report on the findings of the visiting mission to the Assembly at its thirty-ninth session.

2. Australian legislation

73. The rules for the conduct of the referendum were embodied in the Referendum (Self-determination) Ordinance 1984, the text of which is reproduced in appendix III to the present report. The provisions for the implementation of the Ordinance, described in a "Referendum Modalities Paper" issued separately by the Australian Government, are summarized below.

(a) Object of the referendum

74. A referendum was to be conducted in the Cocos (Keeling) Islands on 6 April 1984 to determine the wishes of the Cocos Malay people for their future political status. The proposals on which the Cocos Malays would vote were set out in General Assembly resolution 1541 (XV).

(b) Franchise and eligibility

75. A person would be eligible to enrol if:

(a) He had attained the age of 18 years; and

(b) His principal place of residence was on Home Island; and

(c) His principal place of residence had been on Home Island for the 12 months immediately preceding the closing of the electoral roll on 26 March 1984.

76. A person would have to be enrolled to be eligible to vote. An elector could only vote once. Voting would be compulsory.

(c) Electoral roll

77. A separate roll was to be prepared for the referendum by a person appointed to do so by the Minister for Territories and Local Government. The roll would be based on the roll used for local government elections, to which the person appointed by the Minister would add the names of people eligible but not yet listed, and from which he would delete the names of deceased electors or electors no longer eligible. The roll was to be published 10 days before it was closed to further additions in order to enable people who had been overlooked a chance to seek enrolment. The roll would close 11 days before the day of the poll.

(d) Committee of appeal

78. The Minister could appoint a committee of appeal to hear claims relating to (a) rejection of a claim for enrolment; (b) removal of an elector's name from the roll; and (c) inaccuracies in the roll.

(e) Scrutineers

79. The Administrator would be empowered to appoint scrutineers. All phases of the referendum would be open to scrutiny. Scrutineers might enter the voting compartment while a voter was receiving assistance from the Presiding Officer to ensure that the ballot paper was marked in accordance with the voter's instructions. They might also object to a vote on the grounds that it was informal and request a recount of the votes cast at the referendum. Scrutineers were forbidden to divulge how a person had voted.

(f) Method of voting

80. Voters at the referendum would have access to one static polling booth located on Home Island between 8 a.m. and 3 p.m. on the day of the referendum. A mobile polling station would operate during the same hours to visit the homes of electors who had informed the Returning Officer of their inability to attend the static booth through illness or disability. Mobile polling stations would also operate in the Territory and in Australia prior to referendum day to provide voting facilities for electors leaving the Territory or already visiting Australia. Rolls would be provided at all polling places, including mobile stations. Electors' names would be ruled through on the roll as they were given their ballot papers. There would be no declaration voting.

(g) Ballot paper

81. The ballot paper would be printed in English and Cocos Malay. In addition to a description of the proposals from which electors were to choose, the proposals would be represented by symbols and colours. The order in which the proposals were to appear on the ballot paper would be determined by a lot drawn in the Territory by the Administrator in the presence of representatives of the Cocos Malay community. A black-and-white facsimile of the ballot paper was reproduced as a schedule to the Referendum (Self-determination) Ordinance (see appendix III to the present report).

(h) Recording a vote

82. To indicate the proposal favoured by him, each elector would affix a self-adhesive voting stamp to the ballot paper below that proposal. Identical target markers would be provided below each proposal but alignment with the markers would not be essential for the ballot paper to be formal; if the voter's intention was clear from the position of his voting stamp the ballot paper would be valid. Each elector would be issued with one ballot paper and one voting stamp and would vote for one proposal only. Provision would be made for an elector to be issued a replacement ballot paper and voting stamp if he surrendered his spoilt ballot paper.

(i) Voting stamps

83. Voting stamps of identical appearance, printed exclusively for the referendum and capable of being affixed to the ballot paper to indicate a vote, were to be approved by the Administrator.

(j) Assistance

84. Provision was to be made for illiterate electors and others who were unable to vote unassisted to receive assistance. Assistance would range from identifying on the ballot paper the order and location of the proposals for the illiterate to affixing the voting stamp on the ballot paper for the blind. All assistance given would be under the scrutiny of the appointed scrutineers. Officers and scrutineers who learned how an elector required his ballot paper to be marked while assisting would face a penalty should they disclose that information.

(k) Equipment

85. Ballot boxes and voting compartments used for Australian federal elections would be used during the referendum. The ballot papers and voting stamps would be printed in Australia under secure arrangements and retained by the Electoral Commission until issued to the Returning Officer. The ballot box used in Australia for the collection of absent votes would be airfreighted to the Territory on the charter flight of 4 April under the care of the pilot. The ballot boxes would be displayed empty to the electors waiting to vote, then locked. The absent vote ballot boxes both in the Territory and Australia would be displayed empty prior to the first absent voter casting his vote then locked and sealed and not opened again until the scrutiny commenced. Keys to the locked ballot boxes would be retained by a person other than the Presiding Officer.

(1) Counting the votes

86. The ballot boxes would be taken unopened to a central location after 3 p.m. on referendum day and there unlocked, opened and the ballot papers removed. The papers would be checked for formality and sorted according to the proposal favoured on each and the total votes in favour of each proposal would be ascertained. The authenticity of the ballot papers would be determined from an exclusive overlay print and the initials of the issuing officer on the reverse of the paper. The results were to be declared before 6 p.m. on Saturday, 7 April 1984.

C. Political education

87. The administering Power informed the mission that it had paid close attention to the recommendations and conclusions made by the two previous United Nations missions which had visited the Territory in 1974 and 1980. Among these recommendations was the need for greater political education, which would include efforts by the Australian Government to introduce a free political life in the Territory and to allow free elections in which the people could express their wishes as well as make progress towards self-determination.

88. The Mission was further informed that since the establishment of the Cocos (Keeling) Islands Council in 1979 as an elected body of seven members, elections to the Council involving all the people of the community had been held every two years. In 1982, the control of the Council over areas of Home Island had been extended and clarified. In the five years in which the Council had been operating, there had been a growing confidence among the councillors and greater readiness on the part of the Cocos Malays to speak their minds on issues affecting the Home Island community. The other main body which had given scope for the Cocos Malay community to develop its decision-making responsibilities was the Management Committee of the Co-operative Society, which had also been formed in 1979.

89. The Mission was also told that regular visits by Australian ministers and government officials to the islands and by Cocos Malay leaders to Australia to discuss particular aspects and programmes of social, economic, political and educational development had helped the process of political education. The visits by Cocos Malay leaders to Canberra had given them an understanding of the different arms of the Australian Government, the functions of Parliament and the complexities of decision-making within the Australian context. Those visits had usually included trips to Katanning in Western Australia, where a substantial Cocos Malay community had been settled for some time. The stops at Katanning had enabled the Home Island leaders to maintain direct contact with Cocos Malays who had settled in Australia.

90. The administering Power stated that political education in relation to the role of the United Nations in decolonization matters and more specifically in observing the act of self-determination was also considered a matter of importance. The Australian Government had stated on a number of occasions in the United Nations that the timing of an act of self-determination in the Cocos (Keeling) Islands would be a matter for the people of the Territory to decide

themselves. When they felt ready to proceed, the Australian Government would do everything it could to assist that process and ensure that the act was conducted in accordance with the principles of the Charter and the relevant resolutions of the United Nations.

91. The administering Power recalled that the leaders of the Cocos Malay community had informed the Australian Government in 1982 that they were giving serious consideration to participating in such an act fairly soon in the Territory. Since then, discussions had been held between the Cocos Malay leaders and the relevant Australian authorities. The Minister for Territories and Local Government had visited the Territory in April and December 1983. In that period, the Cocos Malay leaders had formally indicated their preparedness to proceed to an act of self-determination.

92. The administering Power also indicated that there had been a close co-operative dialogue which had concentrated on increasing the awareness and understanding of the community of what was involved in each of the options available in an act of self-determination as broadly defined in General Assembly resolution 1541 (XV). The Australian Government had discussed thoroughly with the Cocos Malay community what was meant by each of those choices. It had explained what the likely political situation would be in the Territory depending on which option the people chose. That dialogue had been conducted at the ministerial level through the visits of the Minister. It had also involved continuing and intensive discussions with the Minister's representative in the Territory, that is, the Administrator.

93. The administering Power also stated that the Cocos Malay community had had the opportunity to study the options set out in General Assembly resolution 1541 (XV). The particular elements of each of those options had been more precisely defined in statements by the Government, including the options paper which had been circulated to the Cocos Malay community in October 1983 (see annex II to the present report). The Administrator, in his discussions with the community and with the leaders, had underlined the importance of having the act of self-determination conducted through a free election. He had explained to the community the importance of the observer role which the United Nations Visiting Mission would play when it came to the Islands. Stress had also been placed on the need to ensure that the voting process would be secret and fair.

94. The Cocos Malay leaders informed the Mission that the Islands Council had discussed the various options intensively and that the Council members had thoroughly explained these options to the community at large in a door-to-door campaign. The individual families had also discussed the options among themselves in accordance with local tradition. The three options had also been discussed on two occasions in general meetings of the community held for that purpose. The leaders also stated that Mr. Clunies-Ross and the members of his family had also conducted a campaign in favour of their preferred option, which the leaders feared might have confused some people.

95. The Mission was shown a video-taped message from the Minister for Territories and Local Government to the Cocos Malay people, as well as posters explaining the

three options and the voting procedures (see appendix IV to the present report). But many of the people did not seem to be familiar with this material. The Mission was informed that every effort had been made to familiarize the people with the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Universal Declaration on Human Rights, both of which had been translated into the Cocos Malay language. Apart from these, and the options paper circulated in October 1983, very little published, broadcast or recorded material was used in the political education process. Nevertheless, given the very small population and the community's long-established custom of consultation, the lack of broadcast or recorded material did not appear to have affected the people's comprehension of the various options available to them.

96. In its discussions with the Cocos (Keeling) Islands Council, the Mission found the community leaders to be confident, articulate and forthcoming in the expression of their views. The Mission's discussions with the people at large indicated, however, that while the people had a general understanding of the three options, they did not fully comprehend all their implications. While that was understandable in view of the lack of education among the community, the Mission felt that perhaps greater efforts could have been made to increase the awareness and understanding of the people of the meaning of the choices placed before them through a better and more extensive use of printed, recorded and broadcast materials such as posters, cassette tapes and radio broadcasts. Most families said they understood the object of the vote on 6 April and were ready to participate.

IV. ROLE AND ACTIVITIES OF THE MISSION

A. Meetings of the Mission at United Nations Headquarters

97. The Mission held a series of meetings at Headquarters between 16 and 22 March 1984 to prepare itself for the observation of the act of self-determination on 6 April.

98. An initial meeting was held on 16 March in order to familiarize the Mission with the political, economic and social conditions in the Territory. The Mission also reviewed the background to the decision to hold the referendum and discussed a number of issues which might be raised with the Australian Government. It was agreed that the Australian Government should be requested to provide all relevant information the Mission might require, including the relevant legislation. The Mission also agreed to meet with the Permanent Representatives to the United Nations of Indonesia, Malaysia and Singapore, in view of the presence of Cocos Malay communities in those countries, in order to obtain information on their situation and their ties with the Cocos (Keeling) Islands.

99. On the same day, the Mission met with Mr. William John Farmer of the Permanent Mission of Australia to the United Nations. Mr. Farmer presented the Mission with an updated annual report on the Cocos (Keeling) Islands and a facsimile of the Referendum (Self-determination) Ordinance 1984, accompanied by the referendum modalities paper (see para. 73). A number of issues, including the degree of political education, the question of the Cocos Malay community in Western Australia and in other countries and the security arrangements in the Territory, were discussed with him in a preliminary manner.

100. In regard to the itinerary proposed by the Australian Government, the Mission requested that more opportunity should be provided to meet with the Cocos Malay community. Mr. Farmer promised to convey the request to the Australian Government. It was agreed that the Mission would have a more detailed and intensive exchange of views with the Australian representative after the members had studied the documentation.

101. The Mission met on 20 March to review the electoral ordinance and other documents provided by the Australian Government. It was agreed that clarification should be sought from the Government on the following points:

(a) The Mission would want to know whether the timing of the referendum had taken into account the political development of the people and whether they were fully conscious of the implications of the important decision that they were about to make.

(b) The Mission would want to ascertain whether an objective and thorough political education programme had been carried out over a significant period of time to familiarize the people with the meaning and implications of all the choices before them and whether they had been informed their rights under the Charter of the United Nations and the Declaration on the Granting of Independence to Colonial Countries and Peoples as well as other relevant resolutions of the General Assembly.

(c) Section 4 (1) of the Referendum (Self-determination) Ordinance, stated that the purpose of the referendum was to ascertain "the preference of the electors in relation to proposals relating to the peace, order and good government of the Territory" but did not make reference to the people's exercise of their right to self-determination.

(d) Section 22 of the Ordinance, relating to the declaration of the result of the referendum, did not specify the basis on which the outcome of the referendum would be determined. As there were three options, it seemed necessary to clarify the majority required for an option to be considered as approved by the voters.

(e) Regarding the eligibility to vote, the question of participation by the Cocos Malay community in Western Australia needed to be clarified.

(f) The Mission would need to be satisfied that the influence of Mr. Clunies-Ross would not outweigh the collective influence of the people.

(g) Referring to the report of the 1980 Visiting Mission, which mentioned the establishment of the Cocos Community Fund (see A/AC.109/635, para. 47), the Mission wished to know what was its current status and whether the Cocos community was participating in its management.

102. On the same day, the Mission met with the representative of the Australian Permanent Mission and raised the above points with him. Mr. Farmer indicated that the Mission's queries would be communicated to Canberra for detailed replies by the Australian Government. Meanwhile, he would give some preliminary answers. He indicated that Australia was confident that the people were politically aware;

institutions of local self-government had been established and had been functioning successfully for some time. The Cocos Malay people had been consulted extensively on the timing of the referendum, which was being held in response to their wishes. Australia therefore felt that the referendum was timely.

103. With regard to the purpose of the referendum, it was reflected in its title. The phrase "peace, order and good government" in section (4) was a standard formulation employed in Australian legal and parliamentary practice (see also para. 55). In regard to the Cocos Malays residing in Western Australia, the Australian Government felt that they should not participate in the referendum since they were Australian citizens with full rights to vote in Australian elections at all levels. They had interests and orientations distinct from those of the Cocos community in the islands. Mr. Farmer also stated that Mr. Clunies-Ross' influence in the Territory was of concern to the Australian Government and that it had taken several steps, in accordance with the recommendations of the previous United Nations Visiting Mission, to reduce his influence, including the purchase of most of his land on Home Island. As a result, his influence had been eroded considerably. The Government intended to take further measures to remove his residual influence.

104. Subsequently, the Permanent Mission of Australia to the United Nations provided written replies by the Australian Government to the questions raised by the Mission.

B. Discussions with the representatives of Indonesia, Malaysia and Singapore

105. On 21 March 1984, the Mission met separately with the Permanent Representatives to the United Nations of Indonesia and Malaysia and the Chargé d'Affaires of the Permanent Mission of Singapore.

106. The Permanent Representative of Indonesia indicated that although the Cocos (Keeling) Islands were geographically close to his country, and the two peoples had the same ethnic background, there was no special historical relationship between them. There might be some contacts, but no trade or economic relations had developed.

107. The Permanent Representative of Malaysia stated that the Cocos Malay population in Malaysia was very negligible, and since they were well settled in the state of Sabah, they no longer had direct interest in the future political status of the Territory. Subsequently, he informed the Mission that if it was so desired, the Malaysian Government would be prepared to make arrangements for polling in Sabah and to provide returning officers. The Permanent Representative was of the opinion that the translation of the three options on the ballot paper into Cocos Malay was accurate.

108. The Chargé d'Affaires of Singapore stated that the Cocos Malay immigrants had been completely absorbed into the local population and no separate records of their settlement were kept. Copra trade with the Cocos (Keeling) Islands and with

Mr. Clunies-Ross was in the private sector and formed a very small part of Singapore's trade. There seemed little prospect of any investment going to the Territory from Singapore.

109. In the light of the information provided by the representatives of Indonesia, Malaysia and Singapore, the Mission agreed that the Cocos Malay communities in those countries had been well integrated with their populations and did not retain any substantial links with the Cocos (Keeling) Islands. Under the circumstances, their participation in the act of self-determination would not be advisable.

C. Meetings of the Mission at Honolulu

110. On its way to Australia, the Mission held three meetings at Honolulu on 28 and 29 March 1984 to discuss the replies received from Canberra to the questions raised by it. It was agreed that the further information provided by the Australian Government had helped to clarify many aspects of those questions, but some of them would need to be discussed in greater detail with the Australian authorities in Canberra. The Mission also reviewed the draft statements to be made by the Chairman at the meetings with the Australian Government in Canberra and with the Cocos Malay community in the Territory.

111. The Mission agreed that it would be willing to meet with Mr. John Clunies-Ross in response to the request for such a meeting conveyed by his attorneys, but that it would not treat him differently from any other resident of Home Island or attach greater importance to his opinions. It was also agreed that a communication received from Mr. Clunies-Ross regarding the act of self-determination (see paras. 145-149), would be provided to the Australian Government to elicit its response to the allegations made therein.

D. Discussions held at Canberra on 2 and 3 April 1984

112. During its stay in Canberra, the Mission called on Sir Ninian Stephen, Governor-General of Australia, and met with Mr. Bob Hawke, the Prime Minister, Mr. William Hayden, the Minister for Foreign Affairs, and Mr. Tom Uren, the Minister for Territories and Local Government.

1. Meeting with the Minister for Foreign Affairs

113. Upon its arrival in Canberra on 2 April 1984, the Mission went immediately to Parliament House where it met with the Minister for Foreign Affairs. The Chairman of the Mission conveyed the Secretary-General's greetings to the Minister and thanked him for having invited the United Nations to send a visiting mission to observe the act of self-determination in the Cocos (Keeling) Islands. The Chairman assured the Foreign Minister of the Mission's impartiality as well as its intention to be guided in its work solely by the interests of the Cocos Malay community, in accordance with the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples and General Assembly resolution 1541 (XV).

114. The Minister reiterated the position of the Australian Government regarding the holding of the referendum and said that Australia would abide by whatever decision the Cocos Malay community made on 6 April. The Australian Government was concerned primarily with the welfare of the Cocos Malay people, who should decide on the basis of what they thought was best for them. The Minister also mentioned the problem posed by the presence of Mr. Clunies-Ross in the Territory and his continued interference in the affairs of the community. He told the Mission that the Australian Government had taken note of the concern of the people and had decided to buy Mr. Clunies-Ross' remaining property with the intention of bringing about his removal in accordance with the wishes of the people. He explained that the matter was pending before the High Court of Australia and that a decision was expected towards the end of 1984.

2. Meeting at the Department of Foreign Affairs

115. On the same day, the Mission met with a group of Australian officials led by Mr. Peter Henderson, Secretary of the Department of Foreign Affairs. The Australian delegation also included Mr. John Enfield, Secretary of the Department of Territories and Local Government and representatives of the Department of Foreign Affairs, as well as the Australian Electoral Commission. Mr. Henderson expressed the gratitude of the Australian Government to the Secretary-General for having accepted the invitation to send a visiting mission to observe the act of self-determination. He said that the Australian Government attached great importance to the referendum, and would abide by its outcome. He recalled the previous visiting missions to the Territory and stressed the spirit of collaboration that had always existed between the Australian Government and the Special Committee. The Australian Government had contributed to the advancement of decolonization in other Territories, and would continue its participation in that process.

116. Mr. Enfield reviewed with the Mission the changes which had taken place in the Territory since the visit of the first United Nations mission in 1974. The second Visiting Mission in 1980 had reported on those changes and he hoped that the present Mission would do likewise. He said that his Department had undertaken to continue improving the welfare of the community at a pace the community could bear and that particular attention would be paid to the preservation of the people's way of life, culture and traditions.

117. The Australian Government had consistently made it clear that it was for the people themselves to decide when the act of self-determination should take place. In September 1983, they had informed the Government that they were ready to go ahead with a referendum and their wishes had been honoured. During his previous visits to the Territory, Mr. Enfield had seen himself that the leaders of the community were politically aware and were very competent advocates of their cause. It was evident that since 1973, the people had developed a certain degree of political maturity in their dealings with the successive ministers responsible for the Territory as well as the Australian representatives in the islands.

118. The Secretary expressed the hope that the programme of activities arranged for the Mission in the Territory would give it every opportunity to make its own assessment of the situation. He also mentioned the briefing papers prepared by his Department, which should help the Mission in the conduct of its observation. He and his staff and other Australian representatives who were going to travel with the Mission were ready to provide further assistance.

119. The two parties discussed the question of Mr. Clunies-Ross' presence in the islands, with particular reference to his letter to the Mission asserting that the Australian authorities had given misleading explanations of the three options to the Cocos Malay community and had placed undue emphasis on one particular option, that of integration with Australia (see paras. 145-149). Mr. Enfield felt that those accusations were baseless and were intended to divert the attention of the Mission from Mr. Clunies-Ross' interference in the affairs of the community. That should come out clearly during the Mission's discussions with the Cocos Malay community and its leaders. Complaints of interference in the affairs of the community continued to be addressed to the Administrator and it was against that background of serious grievances by the people that the Government had decided to acquire the remaining property of Mr. Clunies-Ross, with the understanding that that action would lead to his departure from the Territory. The decision represented a significant step and had been motivated by genuine concern for the future of the community. Mr. Clunies-Ross had challenged the Government's decision, and the High Court was expected to pronounce itself on the matter before the end of the year. If the High Court ruled in favour of Mr. Clunies-Ross, the Government would then study other means of solving the problem to the satisfaction of the people of the Territory.

120. The Mission was informed that Mr. and Mrs. Clunies-Ross would have the right to participate in the referendum and that the community had expressed very strong reservations on the matter. Nevertheless, they had agreed to go along with the Government's position, thus showing great understanding of the sensitivity of the question. Mr. Clunies-Ross' son and daughter-in-law, however, would not qualify to vote because they had not resided on Home Island during the 12 months prior to the date of the referendum.

121. Mr. Enfield described some significant recent developments affecting the community in the fields of housing, education and employment. In the area of housing, the Government was committed to the replacement of some 80 houses within a period of 10 years at a projected cost of \$A 10 million, with the Government contributing \$A 8 million and the Islands Council \$A 2 million. Implementation of the plan would start in July 1984. Provision had also been made within the plan to provide the Home Islanders with cyclone shelter facilities. The education programme put in place in recent years had already resulted in a modest diversification of employment opportunities and activities. During his visit to the Territory in December 1983, the Minister for Territories and Local Government had announced further educational initiatives that the Government was going to undertake in the near future.

122. The Government's programme for expanding employment opportunities was well under way, and had already resulted in the creation of 17 positions for the

community in the clerical, communication, teaching, medical care, quarantine and transport fields. Further progress was expected as the education plan came to fruition. Employment opportunities were also being strengthened and diversified by the development of the Co-operative Society, which had become an important part of the economy. The two advisers furnished by the Australian Government were assisting it in the conduct of its various operations, with the intent of helping the members develop the necessary skills to manage the Co-operative Society by themselves.

123. The Islands Council had been working satisfactorily but the extension of its powers had made its operation more complex. The Government had thus deemed it necessary to provide further assistance by appointing a Council Adviser to assist the body in the conduct of its affairs.

124. The Mission inquired about the possibility of having Cocos Malay residents of Western Australia participate in the act of self-determination, but was told that that would complicate matters significantly, since Cocos Malays from neighbouring countries would also have serious ground to demand participation. The Department of Territories and Local Government estimated the number of Cocos Malays resident in Sabah, Malaysia at 5,000. The leader of the Katanning community had written to the Minister seeking participation in the referendum and a visit to the Territory, but had been told that the vote would not be extended to the mainland residents. They were a separate community with the right to vote in their own constituency in Australian elections.

125. The Mission was told that a major element in the political education programme were the visits undertaken by the chairmen of the Islands Council and the Co-operative Society to all households, to explain the three options. There had also been a number of discussions within the Council, following which, on December 1983, the Chairman of the Islands Council had informed the Australian Government that the community had decided against the two options of independence and free association and was not interested in discussing them. The Mission was further informed that the community preferred to adopt a particular course of action on the basis of thorough discussions involving all community members which would lead to a consensus. Nonetheless, in accordance with international practice and at the request of the Australian Government, the Cocos Malay community had agreed to a formal secret vote to indicate which of the options its members preferred.

126. At the conclusion of the meeting, the Mission attended a screening of a video-taped message from the Minister for Territories and Local Government to the people of the Cocos Malay community.

3. Meetings with the Prime Minister and the Governor-General

127. The Mission called on Prime Minister Hawke on 3 April 1984. After greeting the Prime Minister on behalf of the Secretary-General, the Chairman explained the mandate of the Mission and sought the continued co-operation of the Australian Government to enable the Mission to carry out its mandate. He also expressed the hope that Australia would continue its active role in the Special Committee.

128. The Prime Minister assured the Chairman of Australia's continued co-operation with the Mission as well as its interest and active support for the United Nations and the Special Committee. He stated that his Government wished to hold a free and fair referendum which would be internationally acceptable and that Australia had acted with complete propriety. He added that the Mission's presence would assist in achieving the objective of a free and fair referendum.

129. The Chairman assured the Prime Minister that the Mission would carry out its mandate objectively and would report its findings faithfully.

130. On the same day, the Mission paid a courtesy call on the Governor-General of Australia.

E. Discussions held in the Territory

1. Discussions with the Administrator on 3 April 1984

131. Mr. Kenneth Chan, the Administrator, briefed the Mission on the polling arrangements. He stated that the polling would take place at Club Pulu on Home Island. There would also be a mobile polling station to go to the kampong to enable the sick and disabled voters to cast their votes. He added that every care had been taken to ensure that polling would be fair and the ballot would be secret. The polling station would be set up a day prior to the referendum and the Mission could visit it to see the arrangements.

132. The Administrator asked whether the Mission would like to provide two scrutineers who would oversee the polling inside the polling booth. The scrutineers would assist those voters who needed help in identifying the three options or in affixing the stamp against the desired option.

133. Subsequently, the Mission informed the Australian authorities that it would not be possible for members of the Mission to act as official scrutineers, as that would fall outside its mandate.

2. Discussions with the Chairman and Vice-Chairman of the Islands Council and the Chairman of the Management Committee of the Co-operative Society on 3 April 1984

134. Mr. Cree bin Haig, the Chairman of the Management Committee of the Co-operative Society, stated that all the members of the Mission came from countries which had suffered from colonialism, but the Cocos Malay people had suffered much longer. He added that they had thought about the three options very carefully. No one had told them what to do. Nor had the Australian Government said anything in favour of one or the other option; the people had made their own choice.

135. Mr. Cree added that the Council and the Co-operative did not agree with the decision of the Australian Government to give Mr. and Mrs. Clunies-Ross the right to vote. They had gone along with the decision because they did not wish to create difficulties. Nevertheless, when he had obtained the right to vote, Mr. Clunies-Ross had started to interfere in the affairs of the Cocos Malay community, in which he had some supporters. He had visited the people in their houses in the kampong without the permission of the Council. His son had also visited their work places and had violated the code of behaviour of the community. The Clunies-Rosses had been telling the people that Australia was not telling them the truth. They had also been saying that in the event of integration, Australia would bring outsiders into the Territory and that the Cocos Malay people would have to serve in the army. Mr. Clunies-Ross had advised the people to vote for independence, stating that after independence, the community could rely on the revenues from the airport and the quarantine station. He considered Cocos Malays to be stupid. Those who were close to him were listening to him and he was confusing them.

136. Mr. Cree added that independence was unrealistic because the community was too small. It had no doctors, educators or managers. It had no sources of revenue and no shipping links with the outside world. The Cocos Malay people would have no future. If they chose to integrate with Australia, however, their children would be educated and could have a good future. He requested the assistance of the Mission in persuading Australia not to allow Mr. Clunies-Ross and his wife to vote and in excluding him from the meetings of the Cocos Malay community with the Mission.

137. Mr. Cree also sought the Mission's assistance in obtaining written guarantees from Australia about the future. He stated that the 1978 agreement (see para. 24) contained provisions which had given more power to Mr. Clunies-Ross, of which the Cocos Malays had been unaware. If they had been aware of those provisions, they would not have accepted them. He also thought that the Council should have an independent lawyer to assist it and that both Australia and the United Nations should be parties to the guarantees. He added that the views of the Council were no secret and it was prepared to state them in the presence of the Australian authorities.

3. Discussions with members of the Islands Council and the Management Committee of the Co-operative Society on 4 April 1984

138. Mr. Parson bin Yapat, the Chairman of the Council, welcomed the Mission to the islands and said that he wanted to explain some points related to the referendum as well as the future of the Territory and its people. Mr. Kenneth Chan, the Administrator, reiterated the position of the Australian Government and expressed the hope that the arrangements made for the holding of the referendum would satisfy the Mission and help it to exercise fully its mandate.

139. Mr. Parson said that the leaders had held numerous discussions regarding the three options offered to them, and although they understood them, they had faced difficulties in explaining to the people of the kampong the concepts behind the

three choices. This was due to their low level of education; the Mission should take into account the fact that more than two thirds of the voters were illiterate. Mr. Wahim bin Bynie, the Deputy Chairman, raised some complaints regarding the Australian press, which he thought paid more attention to Mr. Clunies-Ross than to the plight of the Cocos Malay community. Mr. Cree, the Chairman of the Management Committee of the Co-operative Society, said that the information regarding the referendum had been made available for a long time, and that he preferred to discuss other issues with the Mission, particularly the questions of land, education, health and the economic advancement of the Territory. The Government of Australia had promised to transfer ownership of the land to the Council; they wanted to have a written guarantee that that promise would be kept in the future. They wanted the Australian Government to provide them with legal assistance for the drafting of an agreement on that matter. Respect for their traditions, religion, culture and way of life should also be the subject of a written agreement with the Australian Government.

140. The Chairman of the Council confirmed that during 1983, the leaders had held two meetings with all the eligible voters concerning the three options and that the community had reached a consensus on integration with Australia. He wanted to know whether the Mission would agree with that decision. He said that the people were resentful over the fact that Mr. and Mrs. Clunies-Ross would be allowed to take part in the act of self-determination, and asked the Mission to remove their names from the roll. He suggested that perhaps the United Nations could arrange for a separate referendum which would exclude Mr. and Mrs. Clunies-Ross. The leaders had requested the Australian Government to accelerate the proceedings for the departure of the Clunies-Ross family from the Territory, and wished to know whether the Mission could delay the referendum until the settlement of that question. The Chairman of the Mission explained that it was not within the competence of the Mission to act directly on those issues, although it would transmit their grievances to the Australian Government. In any case, if a consensus had been reached on one option, the votes of Mr. and Mrs. Clunies-Ross could hardly affect the outcome of the referendum.

141. The Chairman of the Council expressed concern over the termination of United Nations visits following the decision to integrate with Australia. He thought that in view of their small number and isolation, the United Nations should somehow continue to follow developments in the Territory, for example by sending visiting missions every two years. He also asked the Mission to exclude Mr. Clunies-Ross from a public meeting to be held on 5 April, as he himself would not give his permission. Mr. Clunies-Ross would speak in favour of independence and would try to influence the people in that direction. Finally, he stated that the Council wanted to be more closely involved in the granting and termination of contracts for advisers in the Territory and affirmed its unanimous desire to see the contract of the current Cultural Adviser extended.

142. The Chairman of the Management Committee said that the first United Nations Visiting Mission had made some recommendations which had not been implemented, and that the second Visiting Mission had suggested that action be taken on a number of matters such as the continued control of shipping by Mr. Clunies-Ross. He wanted to be sure that any recommendation made during the current visit would be carried out, not only by the present Australian Administration but also by any other that would follow.

143. In relation to the option of free association, he stated that the Cocos Malay people felt that they could not organize their government without the assistance of Australia; furthermore, if they had to lose the use of the Australian currency, as well as Australian citizenship, the consequences would be very hard to bear. That view was shared by all the members of the Council and the Management Committee.

144. On the same day, the Mission visited the Philatelic Bureau and the Postal Service, where the postmaster explained the work of the Bureau and informed the Mission that the revenue from stamp sales, which amounted to approximately \$A 250,000 per year, would contribute to the construction programme on Home Island. The Mission then proceeded to the West Island school and visited several classes in session. It also met with Home Island students in the higher classes.

4. Discussions with Mr. John Clunies-Ross on 4 April 1984

145. In a letter dated 13 March 1984 transmitted to the Mission in New York, Mr. Clunies-Ross had requested a meeting with the Mission during its visit to the Territory. The Mission received Mr. Clunies-Ross on West Island on 4 April. He was accompanied by his attorney. He stated that the referendum had been arranged in a great hurry and that political information had not been well disseminated. The people were not in a position to make an informed choice and it was not clear what would happen after the referendum since there were no clear guidelines. He added that his views had been spelt out in detail in his letter of 13 March, and that he was ready to provide any clarification or further information. The Chairman explained the mandate of the Mission and assured him that its findings would be faithfully reported to the United Nations.

146. In his letter to the Mission, Mr. Clunies-Ross had indicated his concern over the way in which the Australian Government was "seeking to influence choices of the islanders".

147. In particular, Mr. Clunies-Ross had complained about the Australian Government's "selective advocacy of one particular option" in the official preparations for the act of self-determination. In that connection, he had alleged that the officially circulated paper (see appendix II to the present report) was heavily weighted towards integration and that the influence of the Administration's Cultural Advisor was pervasive. He had also complained that the Australian Government was seeking to exile him and his family for criticizing the Government and speaking out against integration. He further alleged that Australia wanted unrestricted control of the Cocos (Keeling) Islands for reasons of defence strategy.

148. Mr. Clunies-Ross had stated that the paper was not well translated into Cocos Malay and that it devoted four times as much space to promoting integration as it gave to either of the other two options. For those, the emphasis was on negative aspects such as the extent to which the islanders would have to pay for services. The positive elements of free association were not adequately explained. Although Australia had not explicitly endorsed integration, the value of the islands for defence purposes, the amount of expenditure already incurred and the desire of the Australian Government to have the situation brought under complete governmental

control provided ample reason for the Government to have sought to persuade the islanders to accept that option. In Mr. Clunies-Ross' view, the choice of integration would mean the end of the Territory's way of life and probably the loss of its people through emigration to Australia.

149. Mr. Clunies-Ross had concluded by explaining why he believed that free association with Australia was the best choice for the islanders and how such a relationship might be developed.

5. Activities of the Mission on 5 April 1984

150. On 5 April, the Mission travelled to Home Island and visited the training facilities for Cocos Malay apprentice boatmen as well as the primary school. It held discussions with the principal, who presented it with an education report containing suggestions on the future of the Home Island school and its curriculum.

151. During the afternoon of the same day, the Mission attended a public meeting on Home Island where the participation of Mr. Clunies-Ross and his family was challenged by the Chairman of the Council, who made it clear that he had not invited him and would prefer to see him leave. The purpose of the meeting was to discuss the future of the Cocos (Keeling) Islands and the Cocos Malay community, and that did not concern him. The Administrator explained once more the purpose of the referendum and encouraged the people to participate and pronounce themselves on the choice they had made.

152. The Chairman of the Mission delivered a statement outlining the purpose of the Mission and the principles that would guide it in the accomplishment of its mandate (see appendix 5 to the present report). The meeting was then opened to comments by the public. Two Muslim leaders took the floor to speak on the act of self-determination. One of them said that he had read the information provided to them and fully understood the object of the exercise. The other wanted information from the Mission and wondered whether they could retain their Australian citizenship in the event that they chose independence. The representative of the Australian Government responded that in that case, they would lose their Australian citizenship and Australian passports.

153. Following the meeting, the Mission witnessed the explanation of the voting procedures and polling arrangements conducted publicly by the Returning Officer at the polling station. The Mission then divided into groups and toured the kampong, going into houses and talking with the people about the referendum. Most families said that they understood the purpose of the exercise and were ready to participate.

6. Discussions with the Cocos Malay leaders on 7 April 1984

154. At this meeting, the Chairman of the Council acknowledged the results of the referendum and expressed his satisfaction with the option chosen, integration with Australia. He then restated the concern of the community regarding the question of land and asked the Government for assurance that only Cocos Malays would be able to

buy land in the Territory. He wanted an unequivocal statement from the Australian Government on that subject, as well as on the power of the Council to decide on who could enter the Cocos (Keeling) Islands. The Government should not interfere in the area of religion, culture and customs, and those could be preserved if the Council retained strict control over the movement of outsiders into the Territory. The Government should formulate clear guidelines regarding the contract workers it hired for the Territory and allow the Council to pronounce itself on that matter. More assistance should be given to the education sector.

155. The leaders expressed their desire to see the Australian Government expedite the decision on Mr. Clunies-Ross. Their difficulties with Mr. Clunies-Ross stemmed largely from the agreements made between him and the Australian Government in 1978 and they did not wish to have similar problems arise at the current juncture. In the future, they would like to have clear and comprehensive agreements with the Australian Government concerning the Territory made in writing so that the changes of Government would not affect them. They asked the Australian Government to help them obtain legal advice on the issue.

156. The Chairman of the Management Committee of the Co-operative Society sought clarifications on the future of the air strip, the quarantine station, the Philatelic Bureau and other matters of economic interest. He wanted to know whether the Government was making any profits from the quarantine, and requested a comprehensive insurance policy for the Co-operative Society and its workers. Finally, he called for the replacement of the existing crane on West Island to help facilitate the unloading of ships.

157. Mr. Enfield, the Secretary of the Department of Territories and Local Government, gave preliminary answers to most of these questions raised and assured the leaders that they would receive further explanations when they visited Canberra for consultations with the Minister on 9 April.

158. In response to the question on 4 April from Mr. Parson concerning future United Nations interest in the Territory (see para. 141), Mr. Mott, the Assistant Secretary of the Department of Foreign Affairs, said that with the vote in favour of integration, the political, social and educational development of the people would now be pursued within the Australian community, on the basis of special attention by the Australian Government. It would no longer be appropriate for the United Nations to send visiting missions to examine the situation in the islands, because that would suggest that the act of self-determination had not been completed and that the Cocos (Keeling) Islands was still a Non-Self-Governing Territory. As members of the Australian community, the Cocos Malay people would be able to place their views before the elected representatives of the Australian people and would have access to government ministers and members of Parliament. Although the United Nations would no longer have an interest in the islands as a Non-Self-Governing Territory, the United Nations and the Australian Government would remain concerned about the human rights of the Cocos Malay people, who would have access to all of the protections that were available to the Australian people as a whole.

F. Discussions held at Perth and Canberra on 8 and 9 April 1984

1. Discussions with representatives of the Cocos Malay community of Western Australia at Perth Airport

159. The Mission met some 25 representatives of the Cocos Malay community at Perth Airport to ascertain their views regarding the future of the Territory. One questioner asked about the result of the referendum and was apprised of it. Another questioner inquired if the people could choose independence at a later date or if the choice was permanent. Another questioner asked whether the association of the Territory with the United Nations would continue. Another questioner wanted to know the purpose of the meeting, since the referendum had already been held.

160. The Mission explained that the referendum had been organized by Australia as the administering Power and the Mission had observed it. The Mission had nevertheless thought it necessary to know their views so that these could be reflected in its report. One member of the community commented that the Cocos (Keeling) Islands was the homeland of the Cocos Malay people living in Australia as well as of the people living there. However, since the islanders had already made their choice, there was nothing more to say. It was the decision of the islanders.

161. Another member commented that the Cocos Malay people living in Australia and their children had had the benefit of more education and a broader experience than the islanders. It would have been a good idea if they had been given the opportunity to give some advice to the islanders before the referendum. They maintained close relations with the island community and had regular exchanges. They could have offered the benefit of their experience to the island community. One member stated that he could accept integration if the Cocos Malay people were to be given the education to enable them to assume greater responsibilities in the islands.

162. A number of questions were asked and clarifications sought with regard to the economic and social conditions in the Territory particularly in relation to conditions of employment, job opportunities, medical evacuations in case of emergency and the application of social security and other welfare legislation to the Territory. Officials of the Australian Government provided some answers and offered to discuss those problems in greater detail at a later date. The Mission was informed that some 1,000 to 1,500 Cocos Malays lived in Western Australia, mainly in Perth, Katanning, Geraldton and South Headland.

2. Discussions in Canberra with the Minister for Territories and Local Government on 9 April 1984

163. Mr. Uren, in receiving the Mission, declared that all the land in the Territory, with the exception of that owned by the Commonwealth of Australia, would be transferred in deed of trust to the Island Council, including the remaining property owned by Mr. Clunies-Ross if the Government succeeded in buying it. North Keeling Island would form part of a conservation zone to be held in trust jointly by the Commonwealth Government and the Council. That process would be completed within three months following the date of the referendum.

164. As to a request by the Mission that the Cocos Malay community receive a written guarantee against forced acquisition, the Minister said that any land within the Commonwealth could be bought under the Land Acquisition Act as long as it was done with good reason and on just terms. The procedure could be appealed before the High Court of Australia. The Minister formally stated that his Government had no intention of establishing a defence base in the Territory.

165. The Minister also considered the Islands Council, in virtue of its ownership of the land, as the sole and supreme authority on matters concerning immigration to the Cocos (Keeling) Islands. When the Mission informed Mr. Uren of the desire of the Cocos Malay community of Western Australia to be able to move freely between the islands and Australia, he suggested that they could go there only with the permission of the Council and that that applied also to those born in the Territory. The scarcity of resources and the shortage of houses would be taken into account in the decision on entry to the Territory. Mr. Uren added that because the question was one of economics and the power to decide belonged to the Council, his Government would not restrict the Cocos Malays from going to the Territory, nor would it encourage them to do so.

166. With regard to economic development, the Minister made reference to the \$A 8 million earmarked for housing and stated that the Government hoped to increase that amount. The overall rate of economic development would be carefully monitored and kept in line with the number of residents and the availability of resources. The Government would do its utmost to bring the standard of living to the Australian level within a period of 10 years. The Grants Commission would play an important role in the pursuit of that goal.

167. There would also be a localization policy to reduce the number of Australians working in the Territory and gradually replace them by experienced Cocos Malays. The Council would be provided with a full-time adviser paid for by the Australian Government; however, if the Council felt the need to hire a legal adviser on particular matters, it would have to bear the cost itself.

168. The Chairman of the Mission raised the possibility of the Territory being used for defence purposes. Mr. Uren reiterated that it was not the intention of his Government to transform the islands into a strategic or defence base. He added, however, that if an act of aggression were to be perpetrated against Australia from the north, certainly the Cocos (Keeling) Islands and indeed the north of Australia would be envisaged as defence outposts.

169. On the question of political education, Mr. Uren disputed reports by the press of inadequate preparation and thought that if out of 261 voters only 2 had cast ballots that were declared invalid, that was solid proof of good political education.

170. On the same day, the Mission attended a briefing given by the Chairman of the Grants Commission on the role that the Council would play in its efforts to provide a level of public services to the Cocos Malay community comparable to that existing in other parts of Australia.

V. ORGANIZATION AND CONDUCT OF THE REFERENDUM

A. Object of the referendum

171. As described in the "Referendum Modalities Paper" issued by the Australian Government (see para. 73), the purpose of the act of self-determination was to determine the wishes of the Cocos Malay people for their future political status. The proposals on which the Cocos Malays would vote were set out in General Assembly resolution 1541 (XV).

B. Electoral roll

172. An electoral roll was prepared in accordance with sections 5 to 9 of the Referendum (Self-determination) Ordinance 1984 (see appendix III to the present report). It consisted of a total of 263 registered voters. At the time of polling, however, it was discovered that two of the voters included in the electoral roll did not meet the minimum age qualification. Their names were therefore deleted from the electoral roll.

C. Appeals

173. In accordance with section 8 of the electoral ordinance, the Committee of Appeals heard three appeals, two of which were made by members of Mr. Clunies-Ross' family and one by a member of the Cocos Malay community. The Committee rejected all three appeals.

D. Explanation of voting procedures and polling arrangements

174. Prior to the commencement of polling on 6 April, one of the two Returning Officers explained the voting procedures to the voters gathered at the polling station in the presence of the Mission. He showed the ballot paper to the voters and explained the symbols used for each of the three options. He further explained how and where the stamp was to be affixed by the voters under the option of their choice. He pointed out that each ballot must be initialled by the Returning Officer at the back in order to be considered as valid. After receiving the ballot, the voter was to proceed to the polling booth where he could affix the stamp under the option of his choice in complete secrecy, fold the ballot and place it in the ballot box. He also explained that if a voter needed help, he could call upon the official scrutineers to assist him. The scrutineers were required under law to maintain confidentiality. The places reserved for the Returning Officers, the ballot box and the polling booth were pointed out to the voters. Seats were reserved at the polling station for the members of the Mission, who could circulate freely to witness the polling.

175. The explanation, which was clear, thorough and professional, was translated into the Cocos Malay language by an interpreter.

176. The Returning Officer then opened the ballot box in the presence of the voters and the Mission and showed it to everyone present to indicate that it was empty. A separate ballot box meant to be used in the mobile polling for absentee voters was similarly opened and shown to everyone present. Thereafter, the ballot boxes were duly locked and sealed. Polling was scheduled to take place between 8 a.m. and 3 p.m. on 6 April 1984.

E. Polling

177. Polling started precisely at the appointed hour of 8 a.m. In the initial stages, the Returning Officers made the mistake of asking each voter if he needed assistance, whereupon each voter replied in the affirmative, apparently more out of politeness than a real need for help. This led to some procedural problems. The Mission immediately intervened and suggested that the Returning Officers confine themselves to identifying to the voters the three options on the ballot paper and leave it to the voters to seek help if they needed it. This procedure was followed and the minor error was rectified.

178. There was a very large turnout of the voters in the early part of the day and most of the votes had been cast by 11 a.m. The voting proceeded in an orderly manner and in accordance with the provisions of the electoral ordinance. Only a few voters requested the assistance of the scrutineers. Polling was completed by 3 p.m. as scheduled. The Mission witnessed closely the entire voting process.

F. Absentee voting

179. Requests for absentee ballots had been received from seven voters on Home Island. Once the early rush of voters had subsided at the polling station at Club Pulu, one of the Returning Officers accompanied by two members of the Mission and other staff, proceeded to the kampong to carry out the mobile polling. The seven voters cast their votes in their respective homes in accordance with the established procedure. All the absentee voters were either sick or disabled and were evidently in no position to go to the polling station.

180. In addition to the votes cast on Home Island, nine absentee ballots had been completed by voters who were temporarily in Australia either on a visit or for studies, and the ballot box had been flown in by the fortnightly charter flight on 4 April 1984.

G. Results of the referendum

1. Counting of the ballots

181. As soon as the polling was completed, the ballot box from the polling station and the two ballot boxes for absentee voters were unsealed and opened by the Returning Officers in the presence of the community leaders and the Mission. The number of ballots in each box was counted and was found to tally with the number of

ballots cast. Each ballot was then scrutinized carefully to determine its validity and only two ballots were found to be invalid. One of the ballots had not been initialed and the stamp from the other ballot had come off as it had not been affixed properly. The ballots in favour of each option were then separated, counted and tabulated carefully. The number of ballots in favour of each option was recorded and certified and the ballots were put in sealed envelopes. The counting process was completed by 3.35 p.m.

182. The scrutiny, counting and tabulation of the ballots and the recording and certification of the results were carried out meticulously and professionally.

2. Declaration of results

183. The results were announced by the Returning Officer in the presence of the leaders and members of the Cocos Malay community, the United Nations Visiting Mission and officials of the Australian Government.

184. The results were as follows:

Integration	229
Free association	21
Independence	9
Invalid ballots	<u>2</u>
Total	261

After the declaration of the results, the Administrator of the Territory congratulated the people on their choice and the Cocos Malay translation of a message from the Minister for Territories and Local Governments was read out. The Chairman of the Islands Council thanked the Cocos Malay people for their support and the Mission for visiting the Territory to observe the referendum.

185. The Chairman of the Mission addressed the community briefly, assuring the people that the Mission would report its findings faithfully to the United Nations.

VI. OBSERVATIONS AND RECOMMENDATIONS

186. In making these observations and recommendations, the Mission has been guided by the Charter of the United Nations, General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, and resolution 1541 (XV) of 15 December 1960, in particular contained in the annex to that resolution principles VI, VIII and IX, which read as follows:

"Principle VI

"A Non-Self-Governing Territory can be said to have reached a full measure of self-government by:

- (a) Emergence as a sovereign independent State;
- (b) Free association with an independent State; or
- (c) Integration with an independent State.

"Principle VIII

"Integration with an independent State should be on the basis of complete equality between the peoples of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated. The peoples of both territories should have equal status and rights of citizenship and equal guarantees of fundamental rights and freedoms without any distinction or discrimination; both should have equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government.

"Principle IX

"Integration should have come about in the following circumstances:

- (a) The integrating territory should have attained an advanced stage of self-government with free political institutions, so that its peoples would have the capacity to make a responsible choice through informed and democratic processes;
- (b) The integration should be the result of the freely expressed wishes of the Territory's peoples acting with full knowledge of the change in their status, their wishes having been expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage. The United Nations could, when it deems it necessary, supervise these processes."

187. As stated in the introduction to the report, the mandate of the Mission was to visit the Cocos (Keeling) Islands to observe the act of self-determination in accordance with the Charter, the above-mentioned resolutions and the relevant principles and practices of the United Nations. In this regard, the people of the Territory, together with their leaders, time and again expressed full confidence in the United Nations and requested that the Mission advise them regarding the choice they should make. In keeping with its policy of impartiality, the Mission explained the various options and advised the people that they themselves would have to make the choice.

188. From the experience the Mission has gained in observing this act of self-determination, it appears to the Mission that there is a need for the preparation of such an exercise to be carried out in a thorough manner. The Mission, however, considers that the arrangements made for this particular exercise by the administering Power were beyond reproach.

189. As far as the political education programme was concerned, the Mission was informed both by the administering Power and the Cocos Malay leadership that the various options of self-determination - emergence as a sovereign State, free association with an independent State or integration with an independent State - had been explained to the people, who, in turn, had discussed and understood the various options. In its talks with the community members, the Mission gained the impression that, while the people had a general understanding of the three options available to them, their full implications had not been completely understood. Time and again, they requested the Mission to advise them on the implications of the various options. For example, the Mission was asked several times by the community and its leaders whether, if they voted for integration, they could decide to opt out after 10 years and whether the United Nations would continue to send visiting missions to the Territory every two years. In reply, the Mission explained that, if they voted for integration, the act of self-determination could not be held again in the future.

190. The Mission covered the voting process at the polling station as well as the mobile polling booth.

191. The Mission observed that the vote itself was carried out in a free and fair manner and that the conduct of the referendum was handled scrupulously in accordance with the pertinent ordinance. A procedural misunderstanding which arose was pointed out by the Mission, and was promptly rectified to its satisfaction.

192. The Mission was present throughout the entire process of counting and tabulating the ballots. The declaration of the result was made in the presence of the Mission at a public meeting at which a cross-section of the Cocos Malay community was present. The results were as follows:

Integration	229
Free association	21
Independence	9
Invalid ballots	<u>2</u>
Total	261

The counting of the votes and the declaration of the result were carried out in accordance with the pertinent electoral ordinance. The Mission observed that there was an overwhelming turnout of voters and that all 261 registered and qualified voters cast their ballots.

193. Both the people and their leader requested the United Nations to guarantee that the ownership of the land would be transferred to them in perpetuity and made inalienable; that their cultural identity, heritage and traditions would be preserved; and that the economy of the islands would be diversified and developed, taking into account the size of the Territory and its population as well as its isolation and limited natural resources. The Mission received assurances from the Australian Government that the title to the land would be transferred to the people within a period of three months and that other socio-economic measures would be undertaken with a view to diversifying and developing the economy of the Islands.

194. The Mission was informed that the Minister for Territories and Local Government was to address a formal letter to the community incorporating the commitments of the Australian Government. The text of the letter, dated 27 April 1984, is reproduced in appendix VI to the present report. It sets out the steps the Australian Government would take immediately to extend existing legislation to cover the Cocos (Keeling) Islands, including the Federal Electoral Representation Act, the Grants Commission Act and the Social Security and National Health Acts. These will enable the Cocos Malay community to enjoy the same benefits as other Australians, enable the Grants Commission to begin inquiries leading to recommendations on the finances of the islands and enable the people of the Territory to vote henceforward in federal elections. The Mission was also informed by the Australian Government that it had no intention of making the Cocos (Keeling) Islands into a strategic military base or of using the Territory for that purpose.

195. The Mission strongly recommends that the demands and expectations of the people of the Territory, as described in the preceding paragraphs, should be carried out so as to meet fully the provisions of Principle IX of General Assembly resolution 1541 (XV).

196. The Mission further recommends that the role of the Cocos (Keeling) Islands Council and the Management Committee of the Co-operative Society should be extended, as requested by the leaders of these institutions.

197. The Mission, recalling that all of the registered and qualified voters participated in the act of self-determination and that a substantial majority of the votes cast (87.7 per cent) were in favour of integration with Australia, is of the unanimous view that the choice of integration was made in complete freedom and that the act of self-determination was conducted in a fair and unfettered manner. In the light of the foregoing, the Mission considers that the people of the Cocos (Keeling) Islands have exercised their right to self-determination in accordance with the principles of the Charter of the United Nations and the Declaration on the Granting of Independence to Colonial Countries and Peoples.

198. As a general observation, and in the interest of strengthening the institution charged with the implementation of the Declaration, the Mission expresses the view that the United Nations should endeavour to examine whether the people of Non-Self-Governing Territories, in proceeding to an act of self-determination, have adequately understood the options among which they are asked to choose, their significance and implications, as well as the procedures through which each option would be exercised. When an administering Power informs the General Assembly that

the people of a Non-Self-Governing territory are ready to participate, it would thus be advisable first to send a survey mission to the Territory in order to determine the state of political consciousness and preparedness of the people concerned.

199. The Mission recommends that the administering Power arrange for this report to be translated into the Cocos Malay language and to be circulated and explained to the members of the community.

Notes

a/ The text of the Act is contained in Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 23 (A/9623/Rev.1), vol. IV, chap. XX, annex, appendix III.

b/ See Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 23 (A/9623/Rev.1), vol. IV, chap. XX, annex; and A/AC.109/635.

c/ Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 23 (A/9623/Rev.1), vol. IV, chap. XX; and ibid., Thirty-fifth Session, Supplement No. 23 (A/35/23/Rev.1), chap. XXVII.

d/ The local currency is the Australian dollar. At 9 July 1984, \$A 1.00 equalled approximately \$US 0.84.

e/ For the most recent statement, see Official Records of the General Assembly, Thirty-eighth Session, Fourth Committee, 15th meeting, paras. 19-23.

APPENDIX I

Itinerary of the Mission in the Territory

<u>Date</u>	<u>Location</u>	<u>Activities</u>
Tuesday, 3 April 1984	West Island	Arrival in the Territory. Discussions with Cocos Malay leaders. Discussions with the Administrator and other Australian officials.
wednesday, 4 April 1984	Home Island	Meeting with Members of the Cocos (Keeling) Islands Council and the Management Committee of the Cocos Islands Co-operative Society
	West Island	Luncheon with Cocos Malay leaders. Visit to the Philatelic Bureau and Postal Service. Inspection of West Island School. Meeting with Mr. John Clunies-Ross. Dinner at Government House hosted by the Administrator.
Thursday, 5 April 1984	West Island	Inspection of Department of Housing and Construction workshop and observation of apprentice training. Tour of animal quarantine station.
Thursday, 5 April 1984	Home Island	Inspection of training facilities for Cocos Malay apprentice boatmen. Visit to Home Island School. Tour of the <u>kampong</u> for discussions with Home Island residents. Meeting with the Cocos Malay community at Club Pulu.

<u>Date</u>	<u>Location</u>	<u>Activities</u>
Friday, 6 April 1984	Home Island	Observation of the referendum: explanation of voting procedure; casting of ballots; counting of votes; and declaration of results. Reception and dinner at Government House hosted by the Mission.
Saturday, 7 April 1984	Home Island	Discussions with members of the Islands Council and Co-operative Society Management Committee. Luncheon hosted by the Cocos Malay community.
Sunday, 8 April 1984	West Island	Departure from the Territory.

APPENDIX II

The Act of self-determination options paper for presentation to the Cocos Malay community, October 1983

Preamble

1. As a non-self-governing territory, the Cocos (Keeling) Islands is covered by Article 73 of the Charter of the United Nations obliging metropolitan Powers to ensure, with due respect for the culture of the peoples concerned, the political, economic, social and educational advancement of Non-Self-Governing Territories under their control and the development of self-government in those Territories; General Assembly resolution 1514 (XV) stating that all peoples have the right to self-determination and calling for the transfer of all powers to the peoples of Non-Self-Governing Territories; and resolution 1541 (XV) stating that a Non-Self-Governing Territory can be said to have reached a full measure of self-government when it achieves either independence, free association with an independent State, or integration with an independent State.
2. A brief explanation of each self-determination option and how it could be expected to affect the Cocos Malay community follows.

Independence

3. Under the independence option, the Cocos Malay community would be completely responsible for all aspects of their lives, including foreign affairs and defence. It would be up to them to determine how they would govern themselves, how they would raise revenue to buy supplies, and the level and method of funding of services, including education and health, that would be provided to the community. The community would own all the land and hence all the facilities in the Territory and would be responsible for their upkeep, including the airfield and communications with the outside world.
4. In keeping with its policy of helping independent States, particularly in its own area of the world, Australia could be expected to supply advice, materials and money to the newly-independent State. Australia would not, however, have an obligation to provide Australian levels of services and standard of living, as it would be obliged to do under the integration option.
5. The newly-independent State would be entitled to apply to join the United Nations and its agencies. Some assistance could be expected from these agencies but contributions would be levied for membership.

Free association

6. Principle VII of the annex to General Assembly resolution 1541 (XV) provides that free association should be the result of free and voluntary choice by the

peoples of the Territory concerned and that they should have the freedom to alter the arrangements if they want. The Principle also says that people should have the right to determine their own internal arrangements without outside interference.

7. Under this option, an agreement would be negotiated between Australia and the Cocos Malay community under which Australia would conduct, on behalf of the community, all matters relating to defence and relations with the outside world. As with the independence option, the community would have to determine how they were to govern themselves, the standards of services that would be provided and the ways by which revenue would be raised to pay for these things and for imports.

8. Similarly, too, Australia would provide advice, materials and financial support but would not be obliged to provide Australian levels of services and standard of living.

9. The Cocos (Keeling) Islands would not be eligible for membership in the United Nations but Australia, as part of its stewardship of foreign affairs, would seek to obtain whatever United Nations assistance was available.

Integration

10. Principle VIII of the annex to General Assembly resolution 1541 (XV) provides that integration with an independent State should be on the basis of complete equality between the peoples of the Territory in question and those of the independent country with which it is to be integrated. Equality should include opportunities for effective participation at all executive, legislative and judicial levels.

11. Under this option, Cocos Malays could continue to be Australian citizens with the right to reside permanently in Australia. They would have the rights and privileges of all Australian citizens and, of course, the obligations of all Australian citizens. For instance, in due course, when their incomes rise to the level at which other Australians pay income tax, they could be required to pay income tax. Because the economy of the islands has not yet developed fully, it is intended to review in three years' time the existing exemption from income tax.

12. Australia, as a multi-cultural society committed to respecting the rights and traditions of minority cultures, would continue to protect the islanders' rights in that regard. Assistance would be given in maintaining traditional arts, crafts and other cultural pursuits.

13. As has been the practice in relation to other communities, the Australian Government would have an obligation to raise the Cocos Malay services and standard of living to Australian levels; as part of this commitment, Australia would continue to help the community examine ways of broadening the islands' economic base by developing alternative industries and measures aimed at greater self-sufficiency. It is the intention that this would be achieved as soon as possible, commensurate with the availability of resources from both the Government and the community but in not more than 10 years. A review mechanism would be

implemented. The Grants Commission, used by the Australian Government over the last 50 years for such tasks, would be asked to report to the Government on progress after five years. Philatelic revenue would continue to be passed to the Council for community use.

14. In recognition of the importance of education for the future of the Cocos Malay people, Australia would continue to give priority to providing education facilities of the highest standard possible, with the aim of equipping Cocos Malays to take over official positions at all levels. Government employment of Cocos Malays would be expanded progressively. Health facilities, including aerial evacuation, would be maintained and improved.

15. Australia proposes to extend all appropriate Commonwealth laws to the Territory which at present do not apply, including social security and health legislation.

16. In pursuing those objectives, however, the Australian Government would be conscious of the dangers of overly-rapid change for the community and would consult closely with the elected representatives of the community about any proposed measures.

17. The aim would be to leave the community, through its elected representatives, to manage its own affairs to the greatest extent possible, and, without interference in its culture, traditions, religion and land use, to give the Cocos Malay community democratically elected representation at territorial and federal levels appropriate to their circumstances. To that end, Australia would expand the powers and functions of the Cocos (Keeling) Islands Council to include appropriate responsibilities going beyond local government powers in areas affecting their daily lives. The jurisdiction of the Council would be expanded to include the entire Territory. The Council would continue to have an advisory role on any matters affecting the Territory beyond their proposed powers. In addition, all adult islanders would have a vote in federal elections and national referendums. For that purpose, the Cocos (Keeling Islands) would be joined to the Northern Territory electorate.

18. Australia would continue to be responsible for the defence of the islands.

19. The Australian Government recognizes the profound significance of the land for the Cocos Malay community and would transfer to the ownership of the Council the land at present leased to the Cocos Islands Co-operative Society.

20. Cocos Malays would continue to have access to all levels of the Australian judicial system, including avenues for appeal against or objection to administrative decisions.

APPENDIX III

THE TERRITORY OF COCOS (KEELING) ISLANDS

Referendum (Self-determination) Ordinance
1984

No. 1 of 1984

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Cocos (Keeling) Islands Act 1955*.

Dated 14 March 1984.

N. M. STEPHEN
Governor-General

By His Excellency's Command, *

TOM UREN
Minister of State for Territories and
Local Government

An Ordinance relating to the conduct of a referendum

PART I—PRELIMINARY

Short title

1. This Ordinance may be cited as the *Referendum (Self-determination) Ordinance 1984*.¹

Interpretation

2. In this Ordinance, unless the contrary intention appears—

“absent vote” means a vote cast at a mobile polling station by an elector referred to in sub-section 16 (1);

“elector” means a person whose name is on the roll;

“*Gazette*” means the *Government Gazette* of the Territory;

“Committee of Appeal” means the Committee constituted under sub-section 8 (1);

“referendum” means the referendum conducted for the purposes of this Ordinance;

“referendum day” means 6 April 1984;

“the roll” means the electoral roll prepared, under sub-section 5 (1), for the purposes of the referendum.

PART II—ADMINISTRATION

Returning Officer and scrutineers

3. (1) The Administrator shall, by notice published in the *Gazette*, appoint a person to be the Returning Officer in relation to the referendum.

(2) The Administrator shall, by notice in writing published in the *Gazette*, appoint not less than 2 persons to be scrutineers in relation to the referendum.

PART III—HOLDING OF REFERENDUM

The referendum

4. (1) For the purpose of ascertaining the preference of the electors in relation to proposals relating to the peace, order and good government of the Territory, there shall be a referendum which, subject to this Ordinance, shall be held on 6 April 1984 in the Territory.

(2) The proposals to be put to the electors at the referendum shall be the proposals set out in the ballot paper in the Schedule.

Electoral roll

5. (1) The Minister shall, by notice published in the *Gazette*, appoint a person to prepare an electoral roll for the purposes of the referendum.

(2) A notice for the purposes of sub-section (1) shall contain the name and the address of the person appointed under that sub-section.

(3) An elector is entitled to vote in the referendum.

(4) The names of the persons who are, when the roll is prepared, enrolled on the electoral roll prepared and maintained under sub-section 17 (2) of the *Local Government Ordinance 1979* shall be entered by the person appointed under sub-section (1) on the roll.

(5) Where the person appointed under sub-section (1) is aware of the name of a person whose name does not appear on the roll but who is entitled to be an elector, he shall, before the roll is published under sub-section (7), enter the name of that person on the roll.

(6) Where the person appointed under sub-section (1) is aware of the name of a person whose name appears on the roll but who is not entitled to be an elector, he shall, before the roll is published under sub-section (7), remove the name of that person from the roll.

(7) The person appointed under sub-section (1) shall cause the roll to be published in the *Gazette* not later than 16 March 1984.

Alteration of roll—upon application

6. (1) A person who is entitled to be enrolled, but whose name does not appear on the roll, may claim to have his name entered on the roll.

(2) A claim referred to in sub-section (1) shall be made orally or in writing to the person appointed under sub-section 5 (1) so as to be received by him before 5 o'clock in the afternoon of 26 March 1984.

(3) Where the person appointed under sub-section 5 (1) is of the opinion that a person who has made a claim under sub-section (1) is eligible to be an elector, he shall cause the name of that person to be entered on the roll.

(4) Where the person appointed under sub-section 5 (1) is of the opinion that a person who has made a claim under sub-section (1) is not eligible to be an elector, he shall reject the claim and shall give notice of the rejection to the claimant forthwith.

(5) The person appointed under sub-section 5 (1) shall not accept a claim under sub-section (1) received by him after 5 o'clock in the afternoon of 26 March 1984.

(6) No alteration under this section shall be made to the roll between 6 o'clock in the afternoon on 26 March 1984 and the day on which the result of the referendum is declared.

Alteration of roll—in certain circumstances without application

7. (1) Subject to sub-section (4), the person appointed under sub-section 5 (1) shall remove from the roll the name of any person who—

- (a) is dead; or
- (b) ceases to be eligible to be an elector.

(2) Where the person appointed under sub-section 5 (1) removes, under paragraph (1) (b), a name from the roll, he shall inform the person concerned as soon as possible of the removal of his name from the roll.

(3) Subject to sub-section (4), the person appointed under sub-section 5 (1) may correct a name on the roll where he is informed of a change in that name.

(4) No alteration under this section shall be made to the roll between 6 o'clock in the afternoon on 26 March 1984 and the day on which the result of the referendum is declared.

Appeals

8. (1) The Minister may, by notice published in the *Gazette*, appoint 3 persons to constitute a Committee of Appeal.

(2) A person—

- (a) who has made a claim under sub-section 6 (1) and whose claim has been rejected under sub-section 6 (4);
- (b) who, not being a person referred to in paragraph (a), has made a claim under sub-section 6 (1) and whose name has not been entered, or is not correctly entered, on the roll; or
- (c) whose name has been removed from the roll,

may apply to the Committee of Appeal for an order under this section.

(3) An application under this section may be made either orally or in writing and shall be made to the Committee of Appeal, or in writing to the Returning Officer who shall forward such an application received by him to the Committee of Appeal, before referendum day.

(4) The Committee of Appeal shall hear and determine an application made under this section.

(5) In hearing and determining an application made under this section—

- (a) the procedure of the Committee of Appeal shall, subject to this Ordinance, be determined by the Committee;
- (b) the proceedings shall be conducted with as little formality and technicality, and with as much expedition, as the requirements of this Ordinance, and a proper consideration of the application, permit; and
- (c) the Committee is not bound by rules of evidence.

(6) Where the Committee of Appeal hears and determines an application made under this section, it may order that the name of the applicant be entered, correctly entered or reinstated on the roll, as the case requires.

(7) The person appointed under sub-section 5 (1) shall give effect to an order made by the Committee of Appeal under this section.

Persons entitled to have their names entered on the roll

9. A person—

- (a) who has attained the age of 18 years;
- (b) whose principal place of residence is on Home Island in the Territory; and
- (c) whose principal place of residence was on Home Island in the Territory during the whole of the period of 12 months immediately preceding 26 March 1984,

is, subject to the provisions of this Ordinance, entitled to have his name entered on the roll.

PART IV—VOTING

Voting at the referendum

- 10. (1) The referendum shall be by secret ballot.

(2) Subject to section 17, the voting at the referendum shall commence at 8 o'clock in the morning on referendum day and shall conclude at 3 o'clock in the afternoon on that day.

Polling places and staff

11. (1) The poll for the referendum shall be taken at such place or places as the Returning Officer, by notice published in the *Gazette*, appoints.

(2) The Returning Officer may, in a notice referred to in sub-section (1), appoint a mobile polling station solely for the taking of absent votes and shall, in the notice appointing that mobile polling station, state the days on which and the times and places, whether inside or outside the Territory, at which that mobile polling station will be open to receive absent votes.

(3) Subject to this section, the Returning Officer shall appoint a Presiding Officer for each polling place.

(4) Where the Returning Officer appoints more than 1 polling place, he may be the Presiding Officer at a polling place.

(5) Where the Returning Officer appoints only 1 polling place, he shall be the Presiding Officer at that polling place.

(6) The Returning Officer may appoint a poll clerk to assist the Presiding Officer at a polling place.

(7) At each polling place there shall be 1 or more separate voting compartments.

(8) Subject to sub-sections 13 (7), (9) and (11), a person who is not an elector about to vote shall not enter a voting compartment during the poll.

Penalty: \$10.

(9) The Returning Officer shall not appoint a person under the age of 18 years to be a Presiding Officer or poll clerk.

(10) In this section, a reference to a polling place includes a reference to a mobile polling station.

Ballot papers, voting stamps and ballot boxes

12. (1) Subject to this section, the ballot papers to be used for the purposes of the referendum shall be substantially in accordance with the ballot paper set out in the Schedule.

(2) Subject to this section, the Administrator shall determine the form of the voting stamps to be used for the purposes of the referendum.

(3) The Returning Officer shall furnish to each Presiding Officer a sufficient number of ballot papers and voting stamps.

(4) The voting stamps shall be identical in colour, configuration and detail, shall be specially printed for the referendum and each shall be capable of being affixed to the ballot paper to indicate a vote.

(5) The description of a proposal to be put to the electors shall appear on the ballot paper under a symbol representing the proposal and there shall be sufficient space below the description for a voting stamp to be affixed in that space.

(6) The Presiding Officer shall initial each ballot paper on the back before delivering it to an elector voting at the polling place at which he presides.

(7) The Returning Officer shall furnish to each Presiding Officer a ballot box capable of being locked and with an opening in the top through which the ballot papers may be deposited.

(8) A ballot box furnished to a Presiding Officer under sub-section (7), other than an absent vote ballot box referred to in sub-section 17 (1), shall be displayed empty to electors present immediately before the commencement of polling and then it shall be locked and sealed and shall remain locked throughout the polling and its key shall be retained by a scrutineer.

Method of voting

13. (1) An elector may vote at any polling place or mobile polling station appointed by the Returning Officer.

(2) Subject to sub-section 15 (3), the Presiding Officer at a polling place shall deliver to each elector desiring to vote at that polling place a ballot paper initialled in accordance with sub-section 12 (6).

(3) Subject to sub-section 15 (3), the Presiding Officer at a polling place shall deliver to each elector desiring to vote at that polling place a voting stamp furnished to the Presiding Officer under sub-section 12 (3).

(4) Where the Presiding Officer has delivered a ballot paper and voting stamp to an elector in accordance with sub-sections (2) and (3) he shall place a mark against the name of that elector on a copy of the roll.

(5) An elector who has received a ballot paper and voting stamp under sub-sections (2) and (3) shall—

- (a) enter a voting compartment;
- (b) without leaving the compartment, affix the voting stamp in the space on the ballot paper below the proposal for which he wishes to vote;
- (c) fold the ballot paper so as to conceal his vote; and
- (d) in the presence of Presiding Officer, place the ballot paper in the ballot box.

(6) An elector may ask a Presiding Officer or poll clerk to identify the proposals on the ballot paper or to indicate to him the respective positions of the proposals on the ballot paper.

(7) When an elector makes a request referred to in sub-section (6) of a Presiding Officer or poll clerk, the Presiding Officer or poll clerk shall accompany the elector to a voting compartment and shall there comply with that request.

(8) In complying under sub-section (7) with a request, a Presiding Officer or poll clerk shall identify to the elector concerned each of the proposals on the ballot paper in the order in which it appears on the ballot paper.

(9) Where the sight of an elector is so impaired that he is unable to vote without assistance or where the elector cannot vote without assistance for some other reason, the Presiding Officer, in the presence of a scrutineer or another person chosen by the elector and, if necessary, an interpreter, shall affix the voting stamp on the ballot paper in accordance with the wishes of the elector.

(10) A Returning Officer, scrutineer, interpreter or other person who assists an elector under this section shall not disclose to any person the nature of the vote of an elector exercised before him.

Penalty: \$20.

(11) Where a Presiding Officer or poll clerk complies, under sub-section (7), with a request, a scrutineer and, if necessary, an interpreter may be present in the voting compartment.

Spoilt ballot papers

14. (1) If any voter, before depositing his ballot paper in the ballot box, satisfies the Presiding Officer that he has spoilt the ballot paper by mistake or accident, he is entitled, on giving it up, to receive a new ballot paper from the Presiding Officer, who shall there and then cancel the spoilt ballot paper, mark it accordingly and set it aside.

(2) Where a voter has affixed his voting stamp to a ballot paper that he has given up as a spoilt ballot paper he is entitled, when he receives a new ballot paper, to receive a new voting stamp from the Presiding Officer, who shall there and then cancel the voting stamp on the spoilt ballot paper.

(3) Spoilt ballot papers shall be retained by the Presiding Officer and handed by him to the Returning Officer in a parcel after the votes have been counted.

Questions

15. (1) A Presiding Officer at a polling place shall ask an elector intending to vote at that polling place to state his full name and address, whether he needs assistance in casting his vote and whether he has already voted at the referendum, but shall not ask an elector any other question.

(2) A person shall not make a false statement in answer to a question asked of him in pursuance of sub-section (1).

Penalty: \$20.

(3) A Presiding Officer shall not give a ballot paper or voting stamp to a person unless—

- (a) the person states his full name and address and that he has not already voted; and
- (b) the name of the person is on the roll.

Absent vote application

16. (1) An elector who, on referendum day—

- (a) by reason of illness or infirmity, will be unable to attend at a polling place to vote;
- (b) being a woman—because of pregnancy, will be unable to attend at a polling place to vote; or
- (c) will be absent from the Territory,

may apply for an absent vote.

(2) An application under paragraph (1) (a) or (b) shall be made not earlier than 16 March 1984 and not later than 3 o'clock in the afternoon on 5 April 1984.

(3) An application under paragraph (1) (c) shall be made not earlier than 16 March 1984 and not later than 3 o'clock in the afternoon on 3 April 1984.

(4) An application under sub-section (1) shall be made to the Returning Officer or to a Presiding Officer at a mobile polling station, shall state the reason for the application, and may be made either orally or in writing.

Mobile polling station

17. (1) A mobile polling station shall be equipped with a copy of the roll, a ballot box marked "Absent Vote Ballot Box", a voting compartment, ballot papers and voting stamps.

(2) Sections 12, 13, 14 and 15 apply to voting at a mobile polling station.

(3) The ballot box issued in respect of a mobile polling station shall be displayed empty to electors present immediately before the first absent vote is cast, then locked, sealed and not opened again until the commencement of the counting of votes.

(4) During the period commencing when the ballot box referred to in sub-section (3) is locked in accordance with that sub-section and ending immediately before the commencement of the counting of votes, the Returning Officer shall have custody of the key of the ballot box.

(5) An elector who applies for an absent vote under paragraph 16 (1) (a) or (b) shall be visited by a mobile polling station on referendum day.

(6) An elector who has applied for an absent vote under paragraph 16 (1) (c) shall vote at a mobile polling station on a day before referendum day.

(7) A mobile polling station shall not visit any elector after 3 o'clock in the afternoon of referendum day.

PART V—COUNTING THE VOTES

Counting the votes

18. (1) Subject to sub-section (2), immediately after the close of the poll at the referendum, the Presiding Officer at each polling place and mobile polling station shall bring, unopened, the ballot box from that place or station, as the case may be, to the Returning Officer.

(2) The Presiding Officer at a mobile polling station, being a mobile polling station that is not open to receive votes on referendum day, shall cause the ballot box issued in respect of that station to be delivered to the Returning Officer on or before referendum day.

(3) When the Returning Officer receives the ballot boxes referred to in sub-section (1), he shall cause each of them to be opened, together with any ballot box received by him in pursuance of sub-section (2), and the total number of formal votes polled in favour of each proposal to be ascertained in the presence of scrutineers.

(4) The Returning Officer may appoint a person to assist him to count the votes.

(5) Subject to section 19, where an elector has placed his voting stamp below a proposal on the ballot paper, his vote shall be recorded in favour of that proposal.

Informal votes

19. (1) A vote shall be informal if—

- (a) it is not authenticated by the initials of a Presiding Officer; or
- (b) the intention of the voter can not be clearly ascertained from the ballot paper.

(2) Informal votes shall be rejected when the votes are counted.

Objections

20. (1) Where a scrutineer objects to a vote on the ground that it is informal, the Returning Officer shall mark the vote “admitted” or “rejected” according to his decision to admit or reject the vote.

(2) Sub-section (1) does not prevent the Returning Officer from rejecting a vote, being a vote in respect of which a scrutineer has not objected, as informal.

Recount

21. At any time before the declaration under section 22 of the result of the referendum, the Returning Officer may, of his own motion, or shall, at the request of a scrutineer, direct a re-count of the votes cast at the referendum.

PART VI—RESULT OF REFERENDUM

Declaration of result of referendum

22. Before 6 o'clock in the afternoon on 7 April 1984 the Returning Officer shall declare in public—

- (a) the number of formal votes polled in favour of each proposal; and
- (b) the number of informal votes,

and the Returning Officer shall give to the Administrator a notice specifying the matter so declared and cause a copy of that notice to be published in the *Gazette*.

Validity of referendum

23. A court shall not declare the referendum to be void, or make any order affecting the result of the referendum, on account of any delay in the conduct of the referendum, in the polling or in the declaration of the result, or on account of any absence or error of, or omission by, any person, being an absence, error or omission that did not, in the opinion of the court, affect the result of the referendum.

PART VII—COMPULSORY VOTING AND OFFENCES

Compulsory voting

24. (1) As soon as practicable after the declaration under section 22 of the result of the referendum, the Returning Officer shall prepare, from the copies of the roll, a list of the names and addresses of persons who were electors and who did not vote and shall furnish the Administrator with the list so prepared.

(2) Within 1 month after the declaration of the result of the referendum, the Returning Officer shall cause to be given to each elector whose name appears on the list prepared in accordance with sub-section (1) a notice stating that the elector failed to vote and asking the elector to notify the reasons for that failure to vote.

(3) Each notice under sub-section (2) shall specify a date, not being a date less than 21 days after the date of the giving of the notice, by which the reasons for failure to vote are to be notified.

(4) An elector who has received a notice under sub-section (2) shall, on or before the date specified in the notice in pursuance of sub-section (3), notify the Administrator, either orally or in writing, of his reasons for failure to vote.

(5) If an elector is unable, by reason of absence from his place of residence or physical incapacity, to notify the Administrator in accordance with sub-section (4), any other person who has personal knowledge of the facts may notify the Administrator and that notification shall, for the purposes of this section, be deemed to be compliance by the elector with the provisions of that sub-section.

(6) Upon receipt of a notification in accordance with sub-section (4) or (5), the Administrator shall endorse on the list prepared in accordance with sub-section (1), opposite to the name of the elector by or on behalf of whom the notification was given, a note that the notification was received.

(7) The Administrator shall endorse on the list prepared in accordance with sub-section (1), opposite to the name of each elector to whom a notice under sub-section (2) has been given and from or on behalf of whom he has not received a notification in accordance with sub-section (4) or (5), a note to that effect.

(8) A list purporting to be prepared by the Returning Officer and endorsed by the Administrator in accordance with this section, and any extract from or copy of the list, purporting to be certified, by writing under the hand of the Administrator, to be a true and correct extract or copy, is evidence in any court—

- (a) of the fact that an elector whose name appears on the list did not vote;
- (b) that a notice under sub-section (2) was received by the elector; and
- (c) that the elector did, or did not, as the case may be, comply with sub-section (4).

Offences

25. (1) An elector shall not—

- (a) fail, without a valid and sufficient reason, to vote at the referendum;
- (b) having received a notice under sub-section 24 (2), fail to comply with sub-section 24 (4); or
- (c) state to the Administrator a false reason for having failed to vote.

Penalty: \$4.

(2) A person shall not make a false statement to the Administrator in relation to the failure of an elector to vote.

Penalty: \$4.

(3) A person shall not—

- (a) vote more than once at the referendum;
- (b) falsely personate any other person with a view to obtaining a ballot paper and a voting stamp or with a view to exercising a vote; or
- (c) threaten, offer or suggest any violence, injury, punishment or other detriment in relation to—
 - (i) an enrolment;
 - (ii) support of or opposition to a proposal; or
 - (iii) the exercise of a vote.

Penalty: \$20.

(4) A person other than—

- (a) an elector to whom a ballot paper has been issued; or

(b) a Presiding Officer acting in pursuance of sub-section 13 (9), shall not affix a voting stamp on a ballot paper.

Penalty: \$20.

(5) A person shall not give, confer or procure or promise or offer to give, confer or procure money or other property or benefit of any kind to, upon or for an elector or another person—

- (a) in order to influence the elector in his vote in the referendum;
- (b) in order to induce the elector to refrain from voting in the referendum;
or
- (c) in order to induce the elector to support or oppose a proposal to be put at the referendum.

Penalty: \$20.

(6) An elector shall not ask for, receive or obtain money or other property or benefit of any kind for himself or another person upon the understanding that—

- (a) his vote at the referendum will be influenced as a result or given in a particular manner;
- (b) he will refrain from voting in the referendum; or
- (c) he will support or oppose a proposal to be put at the referendum.

Penalty: \$20.

(7) Proceedings for an offence under this section shall not be instituted except by the Administrator or a person authorized in writing by the Administrator for that purpose.

PART VIII—MISCELLANEOUS

Regulations

26. The Minister may make regulations, not inconsistent with this Ordinance, prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 15 March 1984.

SCHEDULE

Sub-sections 4 (2)
and 12 (1)

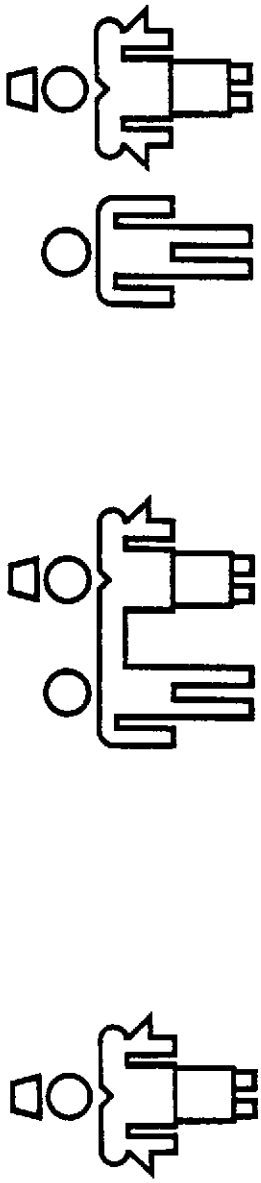
BALLOT PAPER

HALUAN PIGIMANA MEMILIH DI DALAM TIGA BAHAGIAN:
ADA TIGA BAHAGIAN.
SABAN ORANG HARUS PILIH SATU SAJA (DI ANTARA KE TIGA BAHAGIAN ITU).
KASI TARUH STEMNYA DI DALAM KOTAK YANG ADA DI BAWAH BAHAGIAN YANG ORANG MAHU PILIH

PULL COCOS (KEELING) COCOS (KEELING) ISLANDS
REFERENDUM (SELF-DETERMINATION) ORDNANCE 1984

KERTAS LEKSEN
BALLOT PAPER

DIRECTIONS:
THERE ARE THREE PROPOSALS.
YOU ONLY HAVE TO MAKE ONE CHOICE.
PLACE YOUR VOTING STAMP IN THE SPACE BELOW THE PROPOSAL YOU PREFER.



MERDEKA
INDEPENDENCE

PERSATUAN SAMA AUSTRALIA
INTEGRATION WITH AUSTRALIA

BERSOBAT BEBAS SAMA AUSTRALIA
FREE ASSOCIATION WITH AUSTRALIA

Below each of the three icons, there is a large, empty circle, intended for voters to place their voting stamp.

HALUAN PIGIMANA KERTAS KERTAS LEKSEN AKAN DIKERJAKANNYA: SELEPAS KASI SUARA ORANG HARUS KASI LIPAT KERTAS LEKSEN BIAR ORANG LAIN TAK BOLEH TAHU PIGIMANA ORANG PUNYA PILIHAN. KASI LIHAT KERTAS LEKSEN ITU SAMA KETUA LEKSEN BIAR IA BOLEH LIHAT TEMPAT IA SAIN DI BELAKANG KERTAS TERSEBUT. KASI MASUK KERTAS LEKSEN ITU KE DALAM LEKSEN PUNYA PETI

DIRECTIONS: FOLD THE BALLOT PAPER SO THAT NOBODY CAN SEE HOW YOU HAVE VOTED. SHOW THE PRESIDING OFFICER HIS INITIALS ON THE BACK OF THE BALLOT PAPER. PUT THE BALLOT PAPER IN THE BALLOT BOX.

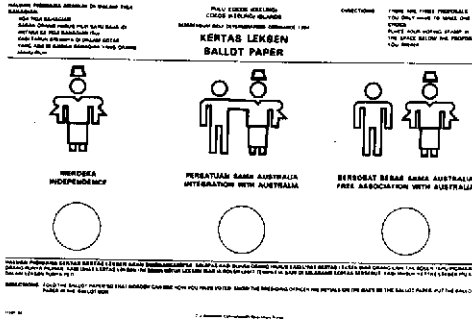
APPENDIX IV

Poster: "what to do on Polling Day"

COCOS (KEELING) ISLAND
REFERENDUM (SELF DETERMINATION) ORDINANCE 1984

WHAT TO DO ON POLLING DAY

- PERGILAH KE TEMPAT LEKSEN DULU.
- **GO TO THE POLLING PLACE.**
- BILA SAUDARA MENGHADAPI KETUA LEKSEN ITU, KASI NAMA SAUDARA SAHA DIA DAN KASI JAWABAN SAMA IA PUNYA PERTANYAAN - PERTANYAAN LAINNYA.
- **WHEN IT IS YOUR TURN TO GO TO THE TABLE, TELL THE PRESIDING OFFICER YOUR FULL NAME AND ANSWER ANY QUESTION HE ASKS YOU.**
- BILANG SAHA KETUA LEKSEN KALOK SAUDARA RASA SUSAH PERLUKANLAH TOLONGAN DENGAN TUKANG TANYA.
- **TELL HIM IF YOU NEED HELP TO MARK YOUR BALLOT PAPER.**
- SELEPAS ITU, KETUA LEKSEN MAU KASI SAMA SAUDARA SATU KERTAS LEKSEN DAN SATU STEM YANG MAHU DIKASI TARUH.
- **HE WILL GIVE YOU ONE BALLOT PAPER AND ONE VOTING STAMP.**
- PERGILAH KE TEMPAT DRANG KASI SUARA.
- **GO TO THE VOTING COMPARTMENT.**
- KERTAS LEKSEN BOLEH DELIHAT DI BAWAH INI.
- **THE BALLOT PAPER WILL LOOK LIKE THIS:**



- CHARILAH BAHAGIAN YANG SAUDARA MAHU PILIH. ADA TIGA BAHAGIAN DI DALAM KERTAS LEKSEN ITU. SAUDARA BOLEH PILIH SATU SAJA DI ANTARA KE TIGA BAHAGIAN INI.
- **TO VOTE, FIND THE PROPOSAL YOU FAVOUR ON THE BALLOT PAPER. THERE ARE THREE TO CHOOSE FROM BUT YOU CAN ONLY VOTE FOR ONE.**
- KASI CHABUT SIEN DARIPADA IA PUNYA KERTAS DAN KASI TARUH STEMNYA DI DALAM KOTAK YANG ADA DI BAWAH BAHAGIAN YANG SAUDARA MAHU PILIH ITU.
- **PULL THE STAMP OFF THE BACKING PAPER AND PRESS IT ONTO THE BALLOT PAPER IN THE SPACE PROVIDED UNDER THE PROPOSAL YOU FAVOUR.**
- KALOK SAKIRANYA SAUDARA SALAH PILIH, KASI LIPAT KERTAS LEKSEN YANG SAUDARA PUNYA ITU. KASI KERTAS LEKSEN ITU BALIK SAMA KETUA LEKSEN BIAR IA BOLEH KASI SAMA SAUDARA KERTAS LEKSEN YANG BARU.
- **IF YOU MAKE A MISTAKE FOLD YOUR BALLOT PAPER AND TAKE IT BACK TO THE PRESIDING OFFICER SO THAT HE CAN GIVE YOU A NEW ONE.**
- BILA SAUDARA SUDAH HABIS KASI TARUH STEM LEKSEN PUNYA ITU DI DALAM KOTAK DI BAWAH BAHAGIAN YANG SAUDARA MAHU PILIH ITU, KASI LIPAT KERTAS LEKSEN BIAR DRANG LAIN TAK BOLEH TAHU PIGI MANA SAUDARA PUNYA PILIHAN. IA BOLEH LIPAT TEMPAT IA SAKIN DI BELAKANG KERTAS LEKSEN TERSEBUT. KASI MASUK KERTAS LEKSEN ITU KE DALAM KOTAK YANG ADA DI BAWAH BAHAGIAN YANG SAUDARA MAHU PILIH ITU.
- **WHEN YOU HAVE MARKED YOUR BALLOT PAPER, FOLD IT UP SO THAT NOBODY CAN SEE WHERE YOU PUT THE VOTING STAMP. GO BACK TO THE PRESIDING OFFICER, SHOW HIM HIS INITIALS ON THE BACK OF THE PAPER, THEN PUT IT IN THE BALLOT BOX.**
- KASI TINGGAL TEMPAT LEKSEN DIADAKAN.
- **LEAVE THE POLLING PLACE.**

KALOK SAUDARA TAK BOLEH KELUAR DARIPADA RUMAH SAUDARA, SAUDARA BOLEH HINJA SAMA SOKAT BIAR KETUA LEKSEN DIKASITAU PASAL APA SAUDARA TAK BOLEH PERGI KE TEMPAT DI MANA LEKSEN MAHU DIADAKAN DI DALAM HARI YANG DITENTUKAN. KETUA LEKSEN BAKAL URUSAN BIAR ADA ORANG DATANG KE RUMAH SAUDARA BIAR SAUDARA BIAR SAUDARA BOLEH KASI SUARA SAUDARA. SEMABUSNYA KETERANGAN INI DIPASAI SAMA KETUA LEKSEN SEBELUM PULUH 3 SORE DI DALAM HARI SEBELUM HARI YANG LEKSEN MAHU DIADAKAN ITU.

IF YOU ARE DISABLED AND UNABLE TO LEAVE YOUR HOUSE, YOU CAN SEND A MESSAGE TO THE RETURNING OFFICER TELLING HIM WHY YOU WILL NOT BE ABLE TO GO TO THE POLLING PLACE ON POLLING DAY AND HE WILL ARRANGE FOR SOMEBODY TO VISIT YOUR HOME TO ENABLE YOU TO VOTE. IF YOU NEED SOMEONE TO VISIT YOU, YOU MUST LET THE RETURNING OFFICER KNOW BEFORE 3 O'CLOCK ON THE DAY BEFORE POLLING DAY.

KALOK SAUDARA MAHU KASI TINGGAL PULU COCOS SEBELUM HARI YANG DITENTUKAN UNTUK MENGADAKAN LEKSEN TERSEBUT, SAUDARA HARUS JUMPA SAMA KETUA LEKSEN BIAR SAUDARA BOLEH KASI SUARA SEBELUM SAUDARA PERGI.

IF YOU ARE LEAVING COCOS BEFORE POLLING DAY SEE THE RETURNING OFFICER SO THAT YOU CAN VOTE BEFORE YOU LEAVE.

INGATLAH DENGAN BAK-BAK - KALOK SAKIRANYA SAUDARA PERLUKAN TOLONGAN KASI SUARA SAUDARA BIAR SAUDARA PASTI PILIH BAHAGIAN YANG MAHU YANG SAUDARA MAHU PILIH, CHOBAK NINTAK TOLONGAN ATAMA BILANG BACITU SAMA KETUA LEKSEN.

REMEMBER—IF YOU WANT SOMEONE TO HELP YOU MARK YOUR BALLOT PAPER, ASK THE PRESIDING OFFICER.

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APPENDIX V

Statement made by the Chairman of the Visiting Mission
at Home Island on 5 April 1984

1. On behalf of the Secretary-General of the United Nations and on our own behalf, we would like to thank the Australian Government, as the administering Power, for having extended an invitation to the United Nations to send a visiting mission to the Cocos (Keeling) Islands in order to observe the conduct of the referendum on self-determination to take place on 6 April 1984, and for making the necessary arrangements to facilitate this visit.
2. The United Nations pays great attention to the well-being and future of Non-Self-Governing Territories and, through Article 73 of its Charter, recognizes the principle that the interests of the inhabitants of those Territories are paramount and accepts as a sacred trust the obligation to promote to the utmost the well-being of the inhabitants of those Territories. To that end, the Charter calls for ensuring their political, economic, social and educational advancement. It also endeavours to develop self-government, to take due account of the political aspirations of the peoples and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each Territory and its peoples and their varying stages of advancement. In this respect, the Special Committee of 24 (of which I am the Chairman) has a particular responsibility towards colonial countries and peoples with regard to their right to self-determination in accordance with resolution 1514 (XV) adopted by the General Assembly on 14 December 1960. The resolution solemnly proclaims, *inter alia*, that all peoples have the right to self-determination and by virtue of that right should be able freely to determine their political status and freely pursue their economic, social and cultural development. It is on this basis that the Mission has come to the Cocos (Keeling) Islands to observe the referendum of 6 April, an important step for the Territory and its inhabitants.
3. I would like also to recall General Assembly resolution 1541 (XV) of 15 December 1960 and in particular Principle VI of the annex to that resolution which states that a Non-Self-Governing Territory can be said to have reached a full measure of self-government by:
 - (a) Emergence as a sovereign independent State;
 - (b) Free association with an independent State; or
 - (c) Integration with an independent State.
4. In this context, independence would mean that the Territory would be fully responsible for the conduct of its internal and external affairs, thus joining the family of nations.
5. In the case of free association, the Territory would be closely linked with the administering Power, which would continue to assume responsibility for defence and foreign affairs.

/...

6. Integration with the administering Power would make the Cocos (Keeling) Islands an integral part of Australia.

7. Our Mission will be guided by these principles and will be conducted within this framework.

8. In 8 November 1983, the Secretary-General of the United Nations received a letter from the Minister for Foreign Affairs of Australia (A/38/695, annex), informing him that the people of the Cocos (Keeling) Islands, through their leaders, had formally advised the Australian Government that they were ready to participate in an act of self-determination to decide their future political status. The Minister extended an invitation for a United Nation mission to visit the Cocos (Keeling) Islands to observe the act of self-determination.

9. In response, the General Assembly authorized the Secretary-General on 7 December 1983 (decision 38/420), to appoint and dispatch a mission to the Territory. Subsequently, the Secretary-General appointed this Mission which is composed of Ambassador Ratu Jone Filipe Radrodro, Permanent Representative of Fiji to the United Nations, Mr. Nebojsa Dimitrijević of Yugoslavia, Miss María Eugenia Trujillo of Venezuela and myself, Abdul G. Koroma of Sierra Leone as its Chairman.

10. Our task is to observe the conduct of the referendum and to report to the United Nations. It is not our function to organize it; this is the responsibility of the Australian Government, as the administering Power, together with the Cocos Malay community. We, on our part, shall want to satisfy ourselves that the whole exercise is carried out fairly and freely and we want to be assured that the people are fully aware of the significance and implications of the various options offered to them. We shall therefore be looking carefully at the preparation of this exercise, and in particular, the political education programme, in order to ascertain that the people are ready to choose their future political status at this time. It is essential that the voters are not subjected to any unfair procedures and that the ballot is secret. We shall not in any way interfere in the process, and therefore shall not state any preference. This, in a nutshell, is the extent of our mandate and we will endeavour to carry it out to the best of our ability. Our findings shall be faithfully reported to the Secretary-General and through him, to the General Assembly of the United Nations.

11. We extend our thanks to the Australian Government for the co-operation and the help provided to us in New York, through the Australian Mission to the United Nations, and we are sure that we can count on further co-operation to make our Mission a successful one.

APPENDIX VI

Letter dated 27 April 1984 from the Minister for Territories and Local Government of Australia to the Chairman of the Cocos (Keeling) Islands Council outlining the proposals and commitments made by the Australian Government to the people of the Territory following the decision to integrate with Australia

1. You will recall that you, other members of the Council and the Chairman and members of the Management Committee of the Co-operative met with the United Nations Visiting Mission and Australian officials on 7 April 1984, the day after the act of self-determination when the people of Cocos chose to integrate with Australia. It was agreed at that meeting that I would write to you outlining the Government's proposals for and commitments to the people of Cocos regarding matters you raised and that I would send a copy to the Chairman of the United Nations Visiting Mission, His Excellency Ambassador Abdul G. Koroma.
2. While I was able to express my happiness that the people of Cocos had chosen the option of integration with Australia and to cover some of the issues during our talks in Canberra on 9 April, I am glad to send you this letter in fulfilment of that promise.
3. Of the several issues raised at the meeting on 7 April, I agree that one of great importance is the future position of Mr. John Clunies-Ross and his remaining land in the Cocos (Keeling) Islands. As you know, the Government's intention is to acquire his remaining property interests using the provisions of the Lands Acquisition Act for the public purpose of the political, social and economic advancement of the Cocos people and to give the property to the Council for the benefit of the people. The Lands Acquisition Act provides that acquisition should be on just terms and hence reasonable compensation will be paid to Mr. Clunies-Ross. As you are also aware, Mr. Clunies-Ross has taken legal action to resist the proposed acquisition under the Lands Acquisition Act. The next step in the legal process is for the High Court of Australia to hold a further hearing. Counsel for the Government have done their utmost to expedite the matter and the necessary papers in defence of its case will be filed early next week, together with the request for the case to be set down for hearing. We expect this will take place in June 1984. It may be several months, however, before the case is finished and a judgement given.
4. You also raised the question of the transfer of ownership to the Cocos (Keeling) Islands Council of the lands which the Australian Government currently leases at nominal rental to the Cocos Co-operative. I am glad to let you know that drafting instructions have been given by my Department for the preparation of the transfer deed. I expect that, as I promised you earlier, the lands will be transferred to your Council within three months of the act of self-determination. The transfer will be upon trust for the benefit, advancement and well-being of the community.

5. As you know, the transfer deed will cover only those lands currently leased to the Co-operative and not those on West Island used by the Australian Government which will remain Australian Government property. Your Council will need to acknowledge that special arrangements will apply to North Keeling Island. We have already agreed, as you know, that there is a special need to protect the environment of North Keeling Island: while North Keeling Island will be included in a transfer of lands to the Council, conservation measures and a management plan for North Keeling will need to be introduced as soon as practicable thereafter by ordinance.
6. You understand that there will be no compensation payable to your Council as a result of the conservation and management plan being introduced in respect of North Keeling, but representatives of the Council will be given an opportunity to participate in the conservation and management of the island.
7. Following the transfer of the lands to your Council, you will have rights in respect of those lands similar to the rights that you already have in respect of the kampong area, but your rights will not be greater than those of other Australian land owners under the laws in force from time to time in respect of their lands.
8. In view of your decision that the land should be transferred to the ownership of the Council, we understand that the present lease to the Co-operative is to be surrendered and that the Council and the Co-operative will make appropriate arrangements in relation to the Co-operative's use of the land.
9. You yourself appreciate the need for your Council to have independent legal advice in respect of the transfer. I understand that you have already had discussions with the solicitors chosen by you when you visited Canberra and no doubt you and your Council will pursue with them those matters which concern you.
10. You have also indicated the very high priority you attach to education, especially to the need to provide adult education to those older members of your community who, as children, were not educated properly and who are illiterate, and to the need for training for apprentices. I agree with you that these are very important matters and I have asked my Department to develop urgently further programmes to accelerate adult education and apprenticeship training, including special help in learning English. Subject to Government consideration of budget proposals, funds will be available for these purposes in financial year 1984/85.
11. The Chairman of the Cocos Co-operative, Cree Bin Haig, raised at the 7 April meeting important matters relating to the economic future of Cocos, including copra production. I know that you recognize that, in common with other remote atolls, you face special problems in developing your economy. This is no doubt one of the reasons why you chose to integrate with Australia. Much has been done to strengthen your economy and ensure the employment opportunities of your work-force. Much remains to be done, however. You and the Co-operative Chairman held preliminary talks with the officers of my Department in Canberra from 9 to 11 April and they are aware of the need to ensure that the economic diversification study, planned to begin in June 1984, should build upon the work done in previous

studies. I am confident that this will assist you in the development of opportunities of your work-force over the next few years.

12. With respect to the airstrip, the quarantine station and the meteorological station, I wish to assure you that the Australian Government proposes to continue these activities on Cocos and we shall seek in every way to increase localization of employment in these and other activities. This will be assisted by the adult education and trade training proposals. We also plan to continue the philatelic service and to pay the profits to your Council for the benefit of the community. I was very pleased when I met with you in Canberra on 9 April to be able to present you with a cheque for \$A 200,000 representing a further advance in respect of the profits from the philatelic service.

13. In regard to contract workers, we have already agreed, during our meeting on 9 April, that it is important to have consistency in the terms of employment of particular people such as the Administrator and the cultural, Council and Co-operative advisers and that the maximum time for each on Cocos will be two years. I am glad to learn that you and the Secretary to the Council, Rabuhu bin Anthony, joined the Administrator and officers of my Department in interviewing applicants for the new position of Council Adviser and that you have agreed upon the person to be appointed.

14. On the question of workers compensation, I understand that the Co-operative is presently examining this matter. As you know, from the talks between you and officers of my Department and the Department of Social Security, sickness benefits are among the social security benefits that will shortly be extended to the people of Cocos. This will have a bearing on the kind of workers compensation arrangements you may make. Other social security benefits you will receive include the family allowance and the aged persons and invalid persons pensions. You know that an officer of the Department of Social Security will visit Cocos shortly to discuss the introduction of these benefits with your Council and with individual families. The Government is also extending the provisions of the Health Acts to Cocos in order to remove any anomalies or disadvantages in the health insurance area.

15. I think it may be helpful if I reiterate clearly the steps we are taking immediately to extend legislation to cover the Cocos (Keeling) Islands now that you have made the important decision to integrate with Australia. The following Acts of the Australian Parliament will be amended to extend their provisions to Cocos:

- (a) Social Security Act;
- (b) National Health Act and National Health Insurance Act;
- (c) Commonwealth Grants Commission Act;
- (d) Federal Electoral Representation Act.

16. I am glad that you were able to meet in Canberra on 11 April with the Chairman of the Commonwealth Grants Commission. Once the Grants Commission Act is amended,

the Government will take steps have the Commission begin preliminary inquiries with a view to making recommendations on Cocos finances in 1989.

17. Amendments to the Local Government Ordinance will be made as soon as possible to extend the Council's powers as outlined in the statement about the act of self-determination options that I gave you in October 1983. I cannot be specific about the details of amendments at this stage because further discussions with you will be necessary. It is essential to have your views about the rate at which you wish the powers of the Council to be broadened so as not to place upon it a burden of responsibilities greater than it needs or wishes to accept immediately. I believe those discussions would be most fruitful some time after the new Council Adviser has taken up his post.

18. The extension of the Federal Electoral Representation Acts to Cocos means that the people of Cocos of voting age will be able to vote henceforward in federal elections. As you know, for the purposes of voting in federal elections, Cocos will be included in the electorate of the Northern Territory. The right to vote is a previous right in a parliamentary democracy and marks the acceptance by the people of Cocos of their full responsibilities as Australian citizens.

19. I emphasize that the inclusion of Cocos in the federal electorate of the Northern Territory will not affect your access to the federal Government through me, as the Minister responsible, or my Department. I also emphasize that the Government of the Northern Territory will have no role or responsibilities in relation to Cocos.

20. I am sending a copy of this letter to His Excellency, Ambassador Koroma, the Chairman of the United Nations Visiting Mission which witnessed the act of self-determination in Cocos. I am happy to assure you and the people of Cocos, and the members of the United Nations, that the Australian Government welcomes the historic decision of the people of Cocos to integrate with Australia.

(Signed) Tom UREN

