

**REPORT
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**

Volume IV

GENERAL ASSEMBLY

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NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

The report of the Special Committee is divided into four volumes. The present volume contains chapters XXVII to XXXIII;* volume I, chapters I-VII; volume II, chapters VIII-XIII; and volume III, chapters XIV-XXVI.

* The present version of chapters XXVII to XXXIII is a consolidation of the following documents as they appeared in provisional form: A/34/23/Add.6 of 5 November 1979, A/34/23/Add.7 of 9 October 1979, A/34/23/Add.8 of 1 October 1979 and A/34/23/Add.9 of 28 September 1979.

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** St. Lucia acceded to independence on 22 February 1979 as Saint Lucia.

CHAPTER XXVII*

GUAM

A. Consideration by the Special Committee

1. At its 1135th meeting, on 9 February 1979, by adopting the suggestions relating to the organization of its work put forward by the Chairman (A/AC.109/L.1280 and Add.1), the Special Committee decided, inter alia, to refer the question of Guam to the Sub-Committee on Small Territories for consideration and report.
2. The Special Committee considered the Territory at its 1148th and 1161st to 1163rd meetings, between 25 July and 5 November.
3. In its consideration of the item, the Special Committee took into account the provisions of the relevant General Assembly resolutions, including in particular resolution 33/44 of 13 December 1978 on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. By paragraph 12 of that resolution, the Assembly requested the Special Committee "to continue to seek suitable means for the immediate and full implementation of General Assembly resolution 1514 (XV) in all Territories which have not yet attained independence and, in particular: ... to formulate specific proposals for the elimination of the remaining manifestations of colonialism and to report thereon to the General Assembly at its thirty-fourth session". The Special Committee also took into account paragraphs 5 and 10 of General Assembly resolution 33/33 of 13 December 1978, by which the Assembly welcomed "the invitation extended by the Government of the United States to the Special Committee to send a visiting mission to Guam to observe the forthcoming referendum on a draft constitution and to observe conditions in the Territory" 1/ and requested the Committee "to continue to seek the best ways and means for the implementation of the Declaration with respect to Guam, including the dispatch of a visiting mission in consultation with the administering Power, to observe the constitutional referendum, to acquire first-hand information on the situation in the Territory and to ascertain the views of the people of Guam concerning their future political status ...".
4. The representative of the United States of America, as the administering Power concerned, participated in the work of the Special Committee during its consideration of the item.
5. On 31 May 1979, the Permanent Representative of the United States to the United Nations informed the Chairman of the Special Committee that the Guam Legislature had, on 9 May 1979, set a new date of 4 August 1979 for the constitutional referendum (A/AC.109/580).

* Previously issued under the symbol A/34/23/Add.6.

1/ Official Records of the General Assembly, Thirty-third Session, Supplement No. 23 (A/33/23/Rev.1), vol. IV, chap. XXVII, annex II. See also A/AC.109/575.

6. At its 1148th meeting, on 25 July, the Special Committee, on the proposal of the Chairman, decided without objection that the visiting mission to Guam should be composed of Sierra Leone (Chairman), the Syrian Arab Republic and Trinidad and Tobago.
7. At its 1161st meeting, on 16 August, the Special Committee, on a proposal of the Chairman and in modification of the decision referred to in paragraph 1 above, agreed to take up directly in plenary meetings the report of the visiting mission to Guam as it became available.
8. At the 1162nd meeting, on 23 October, the representative of Sierra Leone, in his capacity as Chairman of the United Nations Visiting Mission to Guam, 1979, introduced the report of the Mission (see annex to the present chapter).
9. At the 1163rd meeting of the Special Committee, on 5 November, the Chairman drew attention to the draft conclusions and recommendations on Guam (A/AC.109/L.1346).
10. At the same meeting, statements were made by the representatives of the United States, Australia, Czechoslovakia, Trinidad and Tobago, India, the Union of Soviet Socialist Republics and China (A/AC.109/PV.1163).
11. At the same meeting, the Special Committee adopted the draft conclusions and recommendations contained in document A/AC.109/L.1346 (see para. 13 below). Statements in that connexion were also made by the representatives of the Union of Soviet Socialist Republics, the Syrian Arab Republic, Iran, Australia and the Congo (A/AC.109/PV.1163). The reservations expressed by certain representatives on the draft conclusions and recommendations are reflected in the records of the meeting (A/AC.109/PV.1163).
12. On 5 November, the text of the conclusions and recommendations were transmitted to the Permanent Representative of the United States to the United Nations for the attention of his Government.

B. Decision of the Special Committee

13. The text of the conclusions and recommendations adopted by the Special Committee at its 1163rd meeting, on 5 November 1979, to which reference is made in paragraph 11 above, is reproduced below:

(1) The Special Committee reaffirms the inalienable right of the people of Guam to self-determination and independence in accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960.

(2) Fully aware of the special circumstances of Guam, owing to such factors as its size, geographical location, population and limited natural resources, the Special Committee reiterates the view that these circumstances should in no way delay the speedy implementation of the process of self-determination in conformity with the Declaration contained in resolution 1514 (XV), which fully applies to the Territory.

(3) The Special Committee expresses its appreciation for the co-operation given by the administering Power, which has enabled the Committee to conduct a more informed and meaningful examination of Guam, with a view to continuing the process of decolonization towards the full and speedy implementation of the Declaration. The Committee is particularly appreciative of the invitation extended by the United States Government to the Special Committee to send a visiting mission to observe the constitutional referendum on the draft constitution held on 4 August 1979. 2/

(4) In this regard, the Special Committee takes note of the report of the United Nations Visiting Mission to Guam, 1979, 3/ and the conclusions and recommendations contained therein. The Committee notes that the draft constitution put to the people of Guam was rejected.

(5) Noting the finding of the Visiting Mission that the options open to the people of the Territory had not been sufficiently explained to them by the administering Power, the Special Committee, mindful of the principle contained in the Charter of the United Nations and the Declaration set forth in resolution 1514 (XV), recalls that the administering Power has the obligation to ensure that the people of Guam are kept fully informed of their inalienable right to self-determination and independence in accordance with resolution 1514 (XV).

(6) The Special Committee, recalling the relevant resolutions of the General Assembly concerning military bases in colonial and Non-Self-Governing Territories, recognizes that the presence of military bases could constitute a factor impeding the implementation of the Declaration, and reaffirms its strong conviction that the presence of military bases in Guam should not prevent the people of the Territory from exercising their inalienable right to self-determination and independence in accordance with the Declaration and the purposes and principles of the Charter.

(7) The Special Committee, noting that the military establishment constitutes the largest source of employment in Guam, reaffirms the responsibility of the administering Power for the economic and social development of the Territory. In this connexion, the Committee calls upon the administering Power to take all possible steps to strengthen and diversify the economy of the Territory in order to reduce its dependence on limited economic activities.

(8) The Special Committee urges the administering Power, in co-operation with the territorial Government, to continue to take effective measures to safeguard and guarantee the rights of the people of Guam to their natural resources and to establish and maintain control of their future development. The Committee requests that the administering Power take all necessary steps to protect the property rights of the people of the Territory.

2/ Official Records of the General Assembly, Thirty-third Session, Supplement No. 23 (A/33/23/Rev.1), vol. IV, chap. XXVII, annex II. See also A/AC.109/575 and 580.

3/ See annex to the present chapter.

REPORT OF THE UNITED NATIONS VISITING MISSION TO GUAM, 1979

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* Previously issued under the symbol A/AC.109/L.1345.

INTRODUCTION

A. Terms of reference of the Visiting Mission

1. In a letter dated 24 May 1978, addressed to the Chairman of the Special Committee a/ the Permanent Representative of the United States of America to the United Nations, on behalf of his Government, as the administering Power concerned, extended an invitation to the Special Committee to send a visiting mission to Guam to observe the referendum on the draft constitution drawn up by the Guam Constitutional Convention and to observe conditions in the Territory.
2. The Special Committee, in its conclusions and recommendations concerning Guam, which it adopted on 10 August 1978 and in which it expressed appreciation for the co-operation extended to it by the administering Power, welcomed the invitation. The Committee considered that the main purpose of the visiting mission would be to acquire first-hand information on the situation in the Territory and to ascertain the views of the people of Guam concerning their political future. b/
3. The referendum had been scheduled to take place on 7 November 1978 at the same time as the general elections to the Guam Legislature. However, on 27 October, in a letter addressed to the Chairman of the Special Committee (A/AC.109/575), the Permanent Representative of the United States stated that the Guam Legislature had decided to postpone the referendum until 1979 in order to permit extra time for an adequate educational programme designed to familiarize the voters with the proposed constitution so that the people of Guam could make an informed decision on that important issue. The Permanent Representative said that the Committee would be advised when a new date for the referendum had been established. A similar statement was made by the representative of the United States at the 26th meeting of the Fourth Committee on 27 November 1978. c/
4. At its thirty-third session, the General Assembly adopted resolution 33/33 of 13 December 1978, paragraphs 5 and 10 of which read as follows:

"5. Welcomes the invitation extended by the Government of the United States to the Special Committee to send a visiting mission to Guam to observe the forthcoming referendum on a draft constitution and to observe conditions in the Territory;

"...

"10. Requests the Special Committee to continue to seek the best ways and means for the implementation of the Declaration with respect to Guam, including the dispatch of a visiting mission in consultation with the administering Power, to observe the constitutional referendum, to acquire

a/ Official Records of the General Assembly, Thirty-third Session, Supplement No. 23 (A/33/23/Rev.1), vol. IV, chap. XXVII, annex II.

b/ Ibid., chap. XXVII, para. 14 (3).

c/ Ibid., Fourth Committee, 26th meeting, paras. 4-6.

first-hand information on the situation in the Territory and to ascertain the views of the people of Guam concerning their future political status, and to report to the General Assembly at its thirty-fourth session on the implementation of the present resolution."

5. In a letter dated 31 May 1979 addressed to the Chairman of the Special Committee (A/AC.109/580), the Permanent Representative of the United States informed the Committee that on 9 May the Guam Legislature had passed a bill setting the date of the referendum. The bill had been enacted into law shortly thereafter and accordingly the constitutional referendum would take place on 4 August 1979. He renewed his Government's invitation to the Committee to dispatch a visiting mission for the purpose of observing the referendum as well as local conditions in Guam, and stated that his Government was prepared to enter into consultations immediately in order to make the necessary arrangements.

B. Composition of the Visiting Mission

6. At its 1109th meeting, on 29 June 1978, the Special Committee, on the basis of consultations and in conformity with previous practice, decided that the Visiting Mission should be composed of three members and should be accompanied by staff members of the Secretariat.

7. In the light of this decision, the Special Committee, at its 1148th meeting, on 25 July 1979, decided that the Mission should be composed of the following members:

Mr. George Gelaga-King	Sierra Leone (Chairman)
Mrs. Lenore Sylvia Dorset	Trinidad and Tobago
Mr. Mohammad Samir Mansouri	Syrian Arab Republic

Mr. Hassan M. Conteh (Sierra Leone) accompanied the Mission as an adviser to the Chairman.

8. The Secretary-General made available the following staff members to accompany the Mission: Mr. A. Z. Nsilo Swai, Principal Secretary; Mr. Nour Eddine Driss, Political Affairs Officer; Mr. Horace Lennard, Administrative Officer; and Mrs. Susanna Carrillo, Secretary.

C. Itinerary

9. For the convenience of members, before departing for the Territory, the Mission visited Washington, D.C., on 27 July, where it met with Mr. Antonio Won Pat, the Delegate to the United States Congress from Guam, and was briefed by senior officials of the Department of the Interior and the Office of Territorial Affairs. The Mission departed by air on the same day for Honolulu from where, after a brief stopover, it proceeded to Guam on 29 July. The Mission arrived at Agaña, the capital of the Territory, on 30 July.

10. The itinerary of the Mission is contained in appendix I of the present report. The Mission completed its visit to Guam on 7 August and proceeded to Manila, where

it began work on its report. The Mission departed from Manila on 10 August for United Nations Headquarters.

D. Acknowledgements

11. The Mission wishes to place on record its deep appreciation to the Government of the United States for the close co-operation and assistance which it received throughout its visit and for the courtesy and kindness extended to it by Mr. Charles W. Maynes, Assistant Secretary of State for International Organizations, Mr. Antonio Won Pat, Delegate to the United States Congress from Guam, Mr. George Milner, Deputy Director in the Office of Territorial Affairs, and the other senior officials with whom it met in Washington.

12. The members of the Mission wish to express their profound gratitude to the Government and people of Guam for the warm hospitality and co-operation which they extended to the Mission during its stay in the Territory. The Mission wishes in particular to convey its appreciation to Mr. Paul M. Calvo, the Governor; Mr. Joseph S. Ada, the Lieutenant Governor; the senators of the Legislature; the village commissioners; and Mr. Joe Mesa, Executive Director of the Guam Electoral Commission, as well as the many others who facilitated the work of the Mission.

13. The Mission also wishes to thank Mr. Daniel A. Strasser, Adviser in the Permanent Mission of the United States of America to the United Nations, who accompanied the Mission and gave it valuable assistance.

I. INFORMATION ON THE TERRITORY

A. General

1. Land and people

14. Guam, the southernmost of the Mariana Islands, lies in the western Pacific Ocean about 2,400 kilometres south-east of Manila. Its exact location is latitude 13° 26' N. and longitude 144° E. Local time is 10 hours ahead of Greenwich Mean Time. It is a volcanic island, 48.3 kilometres in length and varying in width from 6.4 kilometres at its narrowest point to 13.7 kilometres at its broadest; it has a land area of 1,401 square kilometres. The capital of Guam is Agaña, which is about 2,170 kilometres south of Tokyo and 5,300 kilometres west of Honolulu. Within the territorial waters surrounding Guam there are 20 small islands, ranging in size from mere rocks to islets. The smallest, Calas Rock near Letti Bay, is about 270 square metres in size; the largest, Cocos Island off Merizo, is 36.4 hectares in extent. The smaller islands are public lands, except for Cocos Island and Bangui Island off Agat which are owned by the Won Pat family.

15. The highest point is Mt. Lamlam, in the south-west part of the island, which is 407 metres high. A great part of the coastline ends in cliffs, coastal flat land being found mostly between Agaña and Agat, on the south-west coast. The northern part of the island is a plateau lying 150 metres above sea level. From the centre of the island a range of hills extends southwards. These hills were probably once part of a high plateau which has now been eroded into valleys and ravines and includes most of the island's rivers. Reefs lie off the coast of Guam. Hills in the south are of volcanic origin.

16. The tropical climate is healthy and, on the whole, pleasant. The north-east and east-north-east trade winds prevail for six months of the year, during which time there is less rain. The driest month is generally April. From June to November the south-west monsoon blows at more or less frequent intervals, bringing up to 254 millimetres of rain per month. Average annual rainfall is 2,000 millimetres. Daytime temperatures are usually between 25 and 30 degrees centigrade; evening temperatures are lower but above 20 degrees centigrade.

17. Fruit-bats and lizards are the principal fauna indigenous to Guam. Other species now found on the island include wild deer, doves and other birds, reef fish, coconut crabs and carabao. Among the flowering plants are poinciana (flame tree), frangipani, orchids, lilies, allamander and bougainvillea. Trees include tangantangan, casuarinas, coconut palms and pines. Thick forests once covered nearly the entire northern half of the island but much of the area has been cleared for farm plots and airfields. The main resources lie in the sea.

18. According to the census taken in October 1975, the population numbered 102,057, compared with the figure of 70,331 reported by the Guam Research Bureau in April 1973. Both figures, however, excluded transients residing at military bases, who numbered about 20,000 in 1978. In 1979, the total population was officially estimated at 109,000.

19. The most recent report on population, which gives a breakdown by nationality and origin, was published in 1973 by the Immigration and Naturalization Service in Agaña. It showed that there were around 18,000 aliens from 50 different countries residing in the Territory, the largest group being Filipinos (13,186), of whom half were on temporary work-visa and half were permanent residents.

20. According to the 1970 census, 28 per cent of the population comprised citizens from various parts of the United States and 15 per cent were aliens. The number of Guamanians of Chamorro ancestry had decreased from 90.5 per cent in 1940 to 55 per cent by 1970.

21. The majority of the Guamanians are young. Almost half of the Territory's population is under 19 years of age and only 2.7 per cent is over 65 years. Males outnumbered females by as many as 10,000 in 1979 according to the United States population census. This imbalance is particularly large within the 20-year to 50-year age bracket, primarily owing to the presence of alien contract workers and unmarried military personnel on Guam. Births have declined steadily since 1973.

22. Population variations in recent years have occurred through the intake of Asian construction workers. Slow but continuing migration comes from the United States mainland and Hawaii. Also, Chamorros continually emigrate to the United States.

23. English and Chamorro are the official languages. Most stores have Japanese-speaking and Tagalog-speaking clerks.

24. The local population is predominantly Catholic. Other faiths are Episcopalian, Baptist, Seventh-Day Adventist, Mormon, Jewish, Baha'i, and Jehovah's Witnesses.

25. The Guamanian's life-style has been influenced especially by the religion and culture of the early Spanish colonizers which makes them closer to the

Filipinos or Mexicans than to the Micronesians further east. The Chamorro language is being revitalized through the Chamorro bicultural and bilingual programme in elementary schools. The Guamanians live in a variety of European-style houses, but many still prefer the open, well ventilated island-style houses, particularly in the villages on the southern coast.

2. The early period of foreign rule

26. Archeological excavations on Guam have revealed that the island was inhabited at least as early as 1320 B.C. Two separate prehistoric cultures have been distinguished. One, called pre-Latte, the other Latte. The Latte culture is associated with people who built their houses (latte) on large stone pillars called halege. Some of these pillars, arranged in double rows, are still to be found on Guam.

27. Little is known of these early cultures, but by the sixteenth century, when Europeans first contacted the islanders, the Chamorro people possessed a highly evolved culture and society. Rank and class were important factors in their lives. There were three classes: matua (nobles), atchaot (middle class) and manachang (commoners). The Chamorros were organized in matrilineal clans and lived in villages on the coast, beside rivers, or on hill-tops for their own protection. They built their houses and canoes with great skill and were ingenious in making stone axes, chisels, knives, spears, hammers, mortars, pestles and slingstones. Their small outrigger canoes could travel at a great speed and were known to the early visitors as "flying proas". The Chamorros themselves were tall, well built and robust. They are thought to have been of Malaysian origin.

28. The European discoverer of Guam was Fernando Magellan, the Portuguese navigator, who reached the island on 6 March 1521 after a voyage of 98 days from the Straits of Magellan. Tradition has it that he anchored his ship at Umatac Bay on the south-west coast of Guam, where he traded with the islanders for food and water.

29. In 1565, an expedition led by Miguel Lopez de Legazpi, who had been sent from Mexico to colonize the Philippines, called at Guam and took possession of it for the King of Spain. In 1668, a group of Jesuit missionaries led by Diego Luis de Sanvitores settled in Guam, protected by a garrison of Spanish and Filipino soldiers. Later the same year, a royal order was issued requiring all galleons to put in at Guam and the Spanish commandant was given the rank of Governor. The Jesuit missionaries were at first well received by the Chamorros, about 13,000 of whom were baptized during the first year. However, the islanders soon realized that the Spaniards were a threat to their way of life, and in July 1670 they rose in open rebellion against them, starting 25 years of sporadic warfare. It has been estimated that in only two years of fighting the Chamorro population was reduced from 40,000 to 5,000. Unfamiliar diseases and devastating typhoons also contributed to significantly reducing the population of Guam over the years.

30. During the eighteenth and nineteenth centuries, Guam remained a sleepy backwater of the Spanish empire. In 1815, some seven years after Spain's defeat at the hands of Napoleon, the galleon trade between Mexico and the Philippines ceased. By 1855, Guam had become sufficiently important to American commerce for

the United States to establish a consulate there. In 1856, 3,644 Guamanians died as a result of a smallpox epidemic, thus forcing the Government to allow many Carolinians and Japanese to settle on the island.

31. After the Spanish-American War broke out in 1898, four United States ships, under Captain Henry Glass, were ordered to capture Guam on their way to the Philippines. The order was reportedly carried out without bloodshed and the flag of the United States was raised on the island for the first time on 21 June 1898. Two months later, Guam became a possession of the United States under the terms of the armistice between the United States and Spain. Meanwhile, by a secret agreement, Spain sold the other Marianas Islands, the Caroline Islands and Palau to Germany for \$US 5 million. d/ Captain Richard P. Leary took over as the first United States Governor of Guam in August 1899 after President William McKinley decreed that the island should be placed under the control of the United States Navy.

32. A census taken in 1901 revealed that the island's population was 9,767, of whom all but 46 were Guamanians. In 1917, the first Congress, an advisory council composed of 34 nominated Guamanian leaders, was convened and in 1931 it was replaced by an elected Congress consisting of two houses with a total of 43 members. This Congress, however, like its predecessor, could not initiate legislation.

33. On 3 November 1940, one of the most severe typhoons in the island's history was responsible for island-wide destruction. Just over a year later, on 8 December 1941, Japanese aircraft attacked the island from the neighbouring island of Saipan. For the next 31 months, the Guamanians were subject to Japanese military rule until a United States force of 55,000 men landed in June 1944 and recaptured the island after several weeks of heavy fighting. A United States military Government ruled Guam until the end of May 1946, when the island was again placed under the control of the United States Navy.

34. On 1 June 1950, President Harry S. Truman signed the Organic Act of Guam making Guam an unincorporated Territory of the United States and giving its people United States citizenship. The Act also brought an end to naval administration and turned over responsibility for the island to the Department of the Interior. Mr. Carleton S. Skinner was appointed the first civilian Governor. By June 1960, Guam had its first appointed Guamanian Governor, Mr. Joseph Flores.

B. Current political and constitutional arrangements

1. General

35. As stated above, the Territory is administered under the Organic Act of Guam, 1950, as amended, and is under the general supervision of the United States Department of the Interior. Executive power is vested in a Governor who, together with a Lieutenant Governor, is elected for a term of four years. The Territory has a unicameral Legislature composed of 21 elected members, known as senators. Its legislative power extends to all subjects of local legislation not inconsistent with the provisions of the Organic Act or the laws of the United States applicable to Guam. Elections are on the basis of universal adult suffrage, applicable to persons 18 years of age and older. Although Guamanians are United States citizens, they

d/ The local currency is the United States dollar.

are not eligible while resident on Guam to vote in national elections of the United States. Mr. Paul M. Calvo and Mr. Joseph S. Ada, both Republicans, were elected in 1978 for four-year terms as Governor and Lieutenant Governor respectively.

36. In November 1977, the Guam Legislature voted unanimously to recruit an ombudsman, for a six-year term, to investigate any citizen's allegation that an agency had violated a law or a departmental regulation, unfairly rendered a decision based on factual error, failed to explain adequately an action or performed in an unreasonable manner. After an investigation, the ombudsman could either recommend prosecution if he found evidence of a crime or recommend corrective or disciplinary action. He would be prohibited from participating in political activities, and his removal could be initiated by voter petition and carried out following a two-thirds vote of the Legislature.

2. Legislature

37. The Fifteenth Guam Legislature, which opened in January 1979, is composed of 14 Republicans and 7 Democrats. Three women members were elected to the Legislature and the new districting plan was credited with the election of two Senators of Philippine origin. The Legislature is re-elected every two years. The Territory has a non-voting delegate in the House of Representatives of the United States, who is elected for a two-year term. He is Mr. Antonio B. Won Pat, a Democrat, who was first elected in 1972 and has since been re-elected three times.

3. Judiciary

38. The District Court of Guam is presided over by a judge appointed by the President of the United States for an eight-year term. It serves as the federal court of Guam. As with other federal district courts, it has jurisdiction over all cases arising under the United States Constitution, as well as United States treaties and laws. The Superior Court of Guam handles all other cases arising under the laws of Guam.

4. Public service

39. In 1978, there were 8,241 government employees on Guam. They are protected by the Government of Guam Civil Service Commission, a body composed of seven members who are appointed by the Governor and confirmed by the Legislature. The Civil Service Commission is not only responsible for protecting the employees' merit system, it also serves to strengthen government operations through efficient personnel administration. Review of appeals and complaints by employees occupied most of the Commission's time and efforts during 1978. It was reported that government employees, as well as those seeking employment with the Government, had become more aware of their rights for equal employment opportunities.

40. The Commission has obtained technical assistance from the United States Government (paid for by a grant under the Intergovernmental Personnel Act) for a salary survey and a classification study of employees of the Government of Guam which is being carried out by a task force. The purpose of the study is to draw up a salary structure which will enable the Government of Guam to recruit and retain an

adequate number of competent employees and to identify benchmark positions in private industry and in the public service for the purpose of comparing salaries. The work of the task force has produced a basic framework for updating the Position Classification and Pay Plan of the Government of Guam.

C. Economic conditions

1. Land ownership

41. Thick forests once covered nearly the entire northern half of the island but much of the area has been cleared for farm plots and airfields. The main resources of the Territory, however, lie in the sea. One obstacle to economic development is uncertainty concerning ownership of land. About one third of the land in Guam is owned by the United States armed forces. Land holdings of the Government of Guam constitute about 21 per cent of the total, and approximately 45 per cent is privately owned, mostly in small parcels in the hands of 10,038 private owners, 94 per cent of them owning less than 2 hectares. The holdings of the Government of Guam are scattered and often difficult to exploit. Much of these lands have not been accurately surveyed and valuable parcels have been lost through encroachment by private holdings. The Guam Department of Lands and Surveys is often unable to defend the Government's legitimate ownership against private claims because it lacks adequate records and legal expertise.

2. Role of the Federal Government in the Territory's economy

42. The Government of the United States has played a major role in Guam's physical and economic development since 1898. The fact that until 1962, a security clearance by the United States Navy was required of anyone wishing to visit Guam was one of the major federal constraints on the development of Guam's economy. A number of federal regulations are considered to be still hindering the realization of Guam's economic potential. For example, federal regulations governing airlines, ocean shipping (Jones Act) and fishing have had a decisive impact on Guam.

43. However, the Federal Government remains an important source of employment and income for the Territory. Federal employees constitute about 20 per cent of the island's total civilian labour force.

44. The Federal Government collects income taxes from military and certain other federal employees stationed on Guam. These taxes are then handed back to the local Guamanian Government.

45. This source of income accounted for 22 per cent of total local revenues for 1976/77 e/ and 16 per cent for 1977/78. Revenue derived from income taxes paid by federal employees rose by 37 per cent, from \$US 13 million in 1976 to \$US 18 million in 1977, but decreased by 19 per cent to \$US 15 million in 1978.

46. Federal outlays for Guam amounted to \$US 468 million in 1976/77. These funds include loans and grants to public and private sectors as well as expenditures for

e/ Prior to 1977, the fiscal year extended from 1 July to 30 June. Since 1977 it has extended from 1 October to 30 September.

various federal agencies on Guam, including the military. Because of the size of federal outlays, changes in federal prices cause immense problems of adjustment.

3. The military

47. The size of the military population on Guam depends on the level and pattern of military deployment in the Pacific and Asia.

48. As of July 1978, Guam's military population totalled 17,983 including more than 9,000 dependants, representing approximately 16.5 per cent of the total population of Guam (see table 1 below).

Table 1
Active-duty military personnel and their dependants
July 1975-July 1978

	July 1975	Jan. 1976	July 1976	Jan. 1977	July 1977	Jan. 1978	July 1978
Active-duty personnel:							
Navy	6,281	6,021	6,015	5,726	6,223	5,011	5,703
Air Force	4,215	4,131	3,999	3,577	3,561	3,155	2,592
Marines	329	341	341	365	361	780	364
Coast Guard	125	96	144	138	137	133	108
Army	<u>89</u>	<u>99</u>	<u>95</u>	<u>73</u>	<u>75</u>	<u>85</u>	<u>12</u>
Total	11,039	10,688	10,594	9,879	10,357	9,164	8,779
Dependants:							
Navy	5,266	5,687	5,732	4,118	5,172	4,260	4,790
Air Force	5,820	5,765	5,449	5,204	5,026	4,839	4,172
Marines	6	90	82	58	78	221	92
Coast Guard	104	96	80	106	128	125	122
Army	<u>48</u>	<u>173</u>	<u>177</u>	<u>146</u>	<u>123</u>	<u>142</u>	<u>28</u>
Total	11,244	11,811	11,520	9,632	10,527	9,587	9,204
	<u>22,283</u>	<u>22,499</u>	<u>22,114</u>	<u>19,511</u>	<u>20,884</u>	<u>18,751</u>	<u>17,983</u>

Source: Commander Naval Forces, Mariana Islands, Guam Annual Economic Almanac, 1979.

49. Although there was a reduction of deployment on Guam, total defence outlays for the island increased by 25 per cent from \$US 295 million in 1975/76 to \$US 369 million in 1976/77. Of the latter amount the civilian payroll accounted for 16 per cent; the military payroll for 22 per cent; and construction for 62 per cent.

50. Outlays for construction increased substantially in 1977 mainly because of damage to military facilities caused by a disastrous typhoon, Pamela, which struck the island in 1976. Allocation of disaster funds to the United States military amounted to \$US 122 million, including \$US 60 million for the Navy, \$US 24 million for the Air Force and \$US 30 million for dwellings of service families. Other projects included repair of the Glass Breakwater which protects Apra Harbor, installation of typhoon-proof utility poles and various personnel support facilities.

51. It should be noted that outlays for a given year need not be expended during the same period.

52. Actual military expenditures increased by 7 per cent in 1976/77 and 35 per cent in 1977/78 (see table 2 below). Approximately 40 per cent of the personal income generated on Guam comes from military-related payrolls. The civilian payroll fell by 16 per cent in 1976/77 but advanced by 36 per cent in 1977/78, while the military payroll gained 1 per cent and 7 per cent during the same period.

53. Expenditures on construction continued to grow from \$US 21 million in 1975/76 to \$US 24 million in 1976/77 and \$US 70 million in 1977/78 owing to post-typhoon reconstruction projects which are expected to be completed shortly.

54. Over 90 per cent of the 5,419 civilians currently employed by the military are hired locally.

55. Military facilities occupy 16,000 hectares of federally owned land and are concentrated in five major areas: Lake Fena, the Naval Magazine, the Naval Air Station, the Naval Air Communications Station and the Air Force complex at the northern end of the island (see appendix X).

56. Issues involving military land have been widely discussed in recent years. In 1977 about 27 hectares of land adjacent to the Guam International Airport was released by the Navy for the expansion and development of the airport. Additional land on Cabras Island is expected to be transferred to the Guam Government if and when the ammunition wharf can be moved to another site. This would enable Guam to develop a more efficient and expanded commercial port/industrial complex on Cabras Island, thereby removing a major bottle-neck to the development of Apra Harbor, one of the finest harbours in the Western Pacific (see appendix XI). Also at issue are other military land holdings with economic development potential.

4. Guam Economic Development Authority

57. The Guam Economic Development Authority (GEDA) was created in August 1965 by Public Law 8-80, as amended, as a public corporation with functions, powers and responsibilities vested in and to be exercised by and under the direction of a Board of Directors. The Board is composed of seven members appointed by the Governor with the advice and consent of the Guam Legislature.

58. GEDA was created to assist in the implementation of an integrated programme for the economic development of the Territory, to be a catalyst in the Territory's economic development and to expand the supply of money. The corporation is authorized to control and implement that part of the basic plan for the economic

Table 2

Military expenditures, 1968/69-1977/78
(in thousands of United States dollars)

Fiscal year	Military pay	Civilian pay	Military construction <u>a/</u>	Other <u>b/</u>	Total
1969	55 812	38 304	12 656	36 857	143 629
1970	56 045	40 394	20 265	46 903	163 607
1971	57 570	34 573	12 986	37 261	142 390
1972	54 104	36 572	22 670	30 489	143 835
1973	65 245	43 314	15 197	48 097	171 853
1974	74 316	48 000	22 682	38 500	183 498
1975	97 372	59 869	29 295	30 397	216 933
1976	78 298	69 111	21 306	28 603	197 318
197 T <u>c/</u>	19 364	19 381	3 146	5 368	47 259
1977	79 174	58 076	24 266	50 467	211 983
1978	84 364	78 734	70 349	52 908	286 355

Source: Commander Naval Forces, Mariana Islands, Guam Annual Economic Almanac, 1979.

a/ Represents the amount of work completed during the year only and does not reflect the total bids awarded during the same period.

b/ Includes operating and maintenance expenses, family housing, income taxes reverted to Guam under Sect. 30 of the Organic Act and on-island purchases of goods and services, excluding petroleum products.

c/ Transitional quarter (1 July-30 September 1976) occurring when the Federal Government changed its fiscal year to begin 1 October instead of 1 July.

development of the Territory which relates to: promotion of investments of entrepreneurial capital in Guam; development and maintenance of facilities for lease or sale; and the expansion of agricultural, industrial, hospital, housing and tourist facilities through the provision of financial assistance and by other means. The corporation is authorized to issue, sell or dispose of revenue bonds; invest its funds in any enterprise; obtain land at present controlled by the Government of Guam; and recommend to the Governor investment incentives (including the issuance of qualifying certificates).

59. GEDA maintains and controls three industrial commercial parks; Cabras Island Industrial Park, consisting of 13 hectares; E.T. Calvo Memorial Park in Tamuning, consisting of 11 hectares; and Harmon Industrial Park, consisting of 6 hectares. To encourage and develop the agricultural industry, including both small and large commercial farms, GEDA administers the Agricultural Expense Insurance Fund programmes. In addition GEDA sponsored and actively participated in the "Green Revolution" (see para. 70 below).

60. There is a federally funded development programme established by the United States Congress under the Guam Development Fund Act of 1968. GEDA is the designated agency responsible for the administration of the programme which provides seed money for eligible projects relating to agriculture, fishing, tourism and support facilities for industrial and commercial ventures through direct loans and loan guarantees. The development programme is funded by an annual appropriation of \$US 5 million by the United States Congress.

61. During its visit to Guam, the Mission met with the new administrator of GEDA, who described some of the projects being carried out. He specifically mentioned the master plan for the economic development of Cabras Island, which will eventually be transferred to the Government of Guam following the relocation of the ammunition wharf currently situated on the island. He also took members of the Mission on a visit of the oil refinery which had been established on Guam with the encouragement of GEDA. The administrator explained the various tax and investment incentives which GEDA provides to encourage private investment in Guam.

5. Public utilities

62. Guam's public utilities were under naval control until 1950 when the Department of Defense began transferring the control thereof to the Government of Guam. The utilities at present leave much to be desired, but efforts are being made to improve them.

63. Guam's civilian telephone service is provided by the Guam Telephone Authority (GTA), an autonomous government agency. The number of telephones in use increased by 1,000 in 1978 to a total of 12,323, while the number of workers employed by GTA decreased from 301 to 289. Further reduction in personnel is likely to result from the modernization of the telephone system and the development and implementation of a comprehensive employee training programme. The Authority's total operating revenue increased by 3 per cent in 1978, but it incurred losses amounting to \$US 390,000 during the same year. Its accumulated deficit increased from \$US 560,000 in 1976 to \$US 1.87 million in 1977 and to \$US 2.26 million in 1978. The construction of modern communications facilities was begun in 1977 and is scheduled to be completed in 1980.

64. The Territory's civilian water and sewer service is provided by the Public Utility Agency of Guam (PUAG). The present capacity of water production is 83.2 million litres per day, which accounts for 85 per cent of the island's civilian water consumption. The remaining 15 per cent is supplied by the military water system. Because of insufficient storage capacity, distribution during periods of peak demand has been inadequate. The island's present storage capacity is 57 million litres. An additional 45.4 million litres of capacity is needed to improve the distribution system. There were 19,489 water metres in use in 1978 compared with 19,287 in 1977. PUAG's operating income was \$US 5.1 million in 1978 compared with \$US 5.2 million in 1977.

65. The Territory's existing sewer system consists of approximately 225 kilometres of main lines with 1,177 manholes. The total number of sewer connexions in 1978 was 9,700. By July 1978, water and sewer development projects amounting to \$US 24.4 million were under way, and PUAG plans to invest more than \$US 42 million in water and sewer improvements over the next five years.

66. Electric power is produced jointly by the Guam Power Authority (GPA) and the Navy and is distributed through a single integrated system. Operating and maintenance costs, as well as returns on investments, are shared by both parties, based on the power required and delivered to each. Disputes have often arisen regarding the allocation of costs and revenue on an equitable basis. The growth of Guam's economy and population substantially increased the demand for electricity. GPA has a generating capacity in excess of 300 kilowatts. Electric power consumption increased by 10 per cent in 1978. The major source of GPA revenue comes from sales of electric power, which amounted to \$US 25.2 million in 1978.

6. Agriculture

67. Guam has relatively poor natural conditions for commercial agriculture. The tropical rainfall is seasonal and the dry season may last several months. Inadequate irrigation facilities and the high cost of water add to problems of drought. Rainfall, when it comes, may be torrential and is often accompanied by destructive winds. The tropical environment brings with it a host of agricultural difficulties including year-round insect problems, snails, fungus, blight and the constant need to cut back tropical weed growth. In addition, a combination of geological factors and heavy tropical rainfall has produced relatively poor soils devoid of the mineral and nutrient content needed for satisfactory agricultural production. The slow development of agriculture since the Second World War has led to a reduction in the number of experienced farmers capable of coping with the natural conditions. Lack of financial assistance has also limited development. GEDA offers insurance to cover up to \$US 5,000 in direct losses but does not cover crop losses.

68. The prevailing agricultural wage is below that offered for employment in the public sector. Historically, Guamanians have considered field work to be undesirable. These constraints explain the labour shortage in the agricultural sector, which has been somewhat alleviated by the increased use of alien labour.

69. Much of the good agricultural land remains unavailable or inaccessible to individual farmers. Of the approximately 32,000 hectares of usable land which is owned privately or by the Government of Guam, only about 400 hectares are presently utilized. The small size of plots is an obstacle to the use of machinery and in many cases prohibits individual farmers from purchasing any

capital equipment. Transport, storage and processing facilities for agricultural products are almost non-existent on Guam and therefore most produce must be sold within a short time of harvesting. Marketing efforts remain fragmented and for the most part are the result of individual initiative.

70. As a result of these constraints and because agriculture is the smallest economic sector, employing only about 100 persons, progress has been slow, although production of fruits and vegetables increased in 1978. This was partly due to the success of the "Green Revolution" programme promoted by the Government of Guam, which aimed at increasing local output of food and other agricultural products. As a result of this programme, many families have returned to cultivating their land and selling their produce to resort hotels or to the military. Field farming accounted for 50 per cent of farm output in 1978. Because of extensive storm damage to fruit-bearing trees in 1976, fruit production was confined almost entirely to melons and bananas. Technological advances in farming, such as hydroculture, and a well-organized marketing system can greatly contribute to developing modern commercial farming.

71. Hydroculture has considerable potential on Guam because of its inherent advantages. This method requires less land compared to conventional agriculture and can provide a higher output per unit of area for a variety of reasons. The prime factor is environmental control over climate and weather influences and the minimization of pests and diseases. Another advantage is a low labour requirement because of mechanization of watering and fertilization. A joint venture in hydroculture was undertaken by the Guam Economic Development Authority and a Japanese concern. Its main purpose is to teach hydroculture to local farmers. Vegetable and fruit production from two greenhouses was begun in 1978.

72. Guam has attained self-sufficiency in egg production and a surplus is exported to neighbouring islands. Egg production has represented the largest category of all agricultural products for the past several years. In 1978, the Territory produced 2.3 million dozen eggs, which, however, represented an 8 per cent decrease compared with 1975.

73. Livestock production represented 14 per cent of the value of total agricultural production during 1977/78. Nearly 85 per cent of the 565,000 kilograms of meat produced on Guam during 1978 was pork. To improve the local breeding stock, GEDA allocated \$US 50,000 to upgrade swine and goat production. A constraint on the development of swine production is believed to be the lack of a slaughter-house. Currently, Guam imports approximately 90 per cent of its meat products, mostly from Australia, the United States and New Zealand. Domestic beef production has been declining steadily, from 132,000 kilograms in 1967/68 to 33,000 in 1977/78, accounting for only 6 per cent of the meat produced in 1977/78. There is little potential for the development of beef because of the large amount of land required and the high cost of imported feed.

74. Poultry consumption amounts to approximately 1.3 million kilograms a year, almost all of which is imported. Even though the demand is high, production of poultry meat has remained at low levels over the past 10 years. Local production of poultry constitutes about 10 per cent of all livestock products by weight.

7. Fisheries

75. Commercial fishing and mariculture could offer a great potential for development on Guam; however, a number of constraints limit the growth of this industry. Guamanians have traditionally been reef fishermen and therefore fishing industries which seek to develop deep-sea capabilities have found it difficult to obtain adequate manpower. There is also a lack of vocational training programmes in the field, as well as a lack of technical and financial assistance. Commercial fishing industries have also been hindered by a lack of dock, storage and distribution facilities. The federal constraints associated with specific provisions of the Jones Act prevent the purchase or use of foreign-made fishing boats larger than 5 net tons, and Guam does not have boat-building facilities to offset this constraint. Boat-building costs in the United States are high, and the cost of shipping vessels made in the United States to Guam is almost prohibitive.

76. Nevertheless, Guam is considered a natural location for a major fishing industry, a trans-shipment point for fish and canning operations. Aquaculture and mariculture are especially suitable for Guam because the year-round warm temperatures preclude hibernation and allow for maximum growth. Research conducted in 1977 by the University of Guam found that more than one third of the respondents surveyed would eat fresh fish more often if it were available. Fish is a traditional staple food for many of Guam's ethnic groups and high quality fish is available from the surrounding ocean.

77. Tuna offers the greatest potential in the game fish category, and it is estimated that the potential catch could amount to 1 million metric tons per year. Stock grown under culture includes Malaysian prawn, eel and turtle. Under the sponsorship of Guam's Department of Commerce and utilizing a grant from GEDA, Aquatic Farms, Ltd. of Hawaii was retained to study the feasibility of developing prawn aquaculture. According to the study, the creation of a medium-sized industry comprising 70 hectares of prawn farms and 30 full-time employees could produce 245,000 kilograms of prawns: 70,000 kilograms for local consumption and 175,000 kilograms for export. This volume could generate an annual revenue of \$US 1.5 million.

8. Tourism

78. The removal in 1962, of security restrictions imposed by the military and the increase in Japanese overseas travel brought a boom of investments and visitors to Guam in the late 1960s and early 1970s. At present, for the industry to grow at a faster rate, a certain number of constraints must be given immediate attention. The restrictions on landing rights in Guam, which are imposed by the Civil Aeronautics Board (CAB), limit access to the Territory by tourists from Australia and New Zealand and areas of the Western and South-Western Pacific. In addition, it is difficult for travellers to obtain in Guam the visas which they require for travel to the Asian, Pacific and other international areas. These clearances have to be funneled through Hawaii causing delays and hindering travel from Guam. The major tourist market, Japan, is very specialized and limited to a particular type of traveller. Newlyweds and large groups of young women constitute the majority of tourists from Japan. Efforts should be made to encourage tourism from other countries, including the United States, and activities must be developed which would attract young male tourists or groups interested in

travel and recreation. The tourist facilities in Guam are underdeveloped and the average time spent by tourists in Guam is only four days.

79. Tourism, however, is Guam's second largest source of external income, second only to expenditures by the United States Government. The industry employs between 3,000 and 4,000 people, or between 10 and 15 per cent of the total number of workers in employment. In 1978, Guam attracted 232,000 visitors, who spent an estimated \$US 116 million in the Territory (\$US 500 per visitor), compared with 240,000 visitors in 1977. Seventy per cent of the visitors come from Japan, 14 per cent from North America and 7 per cent from Micronesia. In 1978 there was an increase in the number of families and older people visiting Guam. Young people, however, still dominate the visitor market with 56 per cent being under 30 years of age.

80. In addition, the tourist industry benefits from cruise ship arrivals, which average about 10 a year. The visitors generally go shopping, take a tour, or both, spending an average of \$US 75 per person on Guam. In 1978, 7,000 cruise ship passengers visited Guam, an increase of 28 per cent over the previous year. This sector of the tourist industry, however, has still to be explored.

81. The introduction of discount rates on fares between Guam and Japan is under consideration. Owing to a change in the policy of CAB, airline service between Guam and North America, Hong Kong and Japan is expected to increase and to bring in more tourists. By February 1979, a total of 10 airlines had applied to CAB to provide service to Guam. Most of the proposals include service from the west coast of the United States to Asia via Guam. Tourists from New Zealand, Australia and other areas in the southern Pacific might view Guam as an attractive destination if more convenient air service were available, and if tourist facilities on the island were improved.

9. Construction industry

82. The construction industry is one of the strongest industries on Guam, owing to the expansion in recent years, of hotel construction. The construction industry contains the highest proportion of alien workers. In 1977/78, following the disastrous typhoon Pamela, over \$US 200 million in federal funds was authorized for public relief and reconstruction of damaged military, civilian and government facilities. Defence construction projects valued at \$US 70 million were completed during 1977/78, compared with approximately \$US 48 million during the previous two-year period. Until 1977, wages in the construction sector were depressed, mainly because of the availability of cheap alien labour brought into Guam under the temporary alien employment programme, which allows non-immigrant workers who possess skills not locally available to be employed temporarily. In 1977, the United States Department of Labor initiated a series of increases in the minimum wage to be paid to such alien workers in the construction trades, which would have the effect of raising their wage rates by 1979 to double those paid in 1976. Although intended to encourage the participation of local workers in the construction trades, this move is expected to increase construction costs by as much as 40 per cent over and above other increases stemming from the rising cost of construction materials.

10. Manufacturing

83. Since 1974, Guam's manufacturing sector has become the second largest contributor to the Territory's gross business receipts. Receipts from manufacturing increased from \$US 63 million in 1973 to \$US 187 million in 1978. This growth, however, is largely attributable to Guam's new petroleum refinery, which in 1977 accounted for 90 per cent of the total manufacturing receipts while employing only 10 per cent of the total labour force in the manufacturing sector. Other types of manufacturing activity on Guam include: rock and concrete products, printing and publishing, food processing and a few firms which produce garments and watches principally for export. Employment in the manufacturing sector rose from 1,100 jobs in 1977 to 1,200 in 1978. However, the proportion of the local labour force employed in this sector has remained fairly stable, between 3.2 and 3.5 per cent. Two major constraints have hindered the development of the manufacturing industry on Guam: the lack of skilled workers and the lack of raw materials. In an effort to remedy this situation, several business incentives have been devised to attract light industries to Guam. GEDA administers these incentives which include: abatement of real estate taxes for up to 10 years; abatement of the gross receipts tax on the manufacturing of alcoholic beverage or petroleum products; rebate of up to 75 per cent of income taxes on dividends for up to five years; and rebate of up to 75 per cent of corporate income taxes for up to 20 years.

11. Trade

84. Guam has a duty-free port status and is a beneficiary of the generalized system of preferences under which certain developed nations agree to reduce barriers to imports from developing nations and territories. In April 1979, Guam became a beneficiary of Japan's preference programme. The value of Guam's exports of commodities equals approximately 10 per cent of the total value of its imports. The latest data available on Guam's exports and imports are for the calendar year 1976 and the first two quarters of 1977. In 1976, the value of commodity exports amounted to \$US 21 million and imports totalled \$US 263 million. On a per capita basis, exports were valued at \$US 312 while imports were valued at over \$US 3,000. The figures do not include invisible trade items such as insurance and tourism. The bulk of the island's exports is destined for the United States; however, some of Guam's exports go to Asia and the Trust Territory of the Pacific Islands.

12. Transport and communications

85. Guam is isolated from its regional economic area because cargo and passenger movements from or through Guam to regional and international destinations are severely restricted. Federal regulations restricting the development of the transportation industry apply to both air and ocean transport. Landing rights on Guam are controlled by CAB regulations. The Territory is at present served by only three trans-Pacific airlines: Braniff International, Continental Airlines and Pan American World Airways (Pan Am); furthermore, access by air to the islands of the western Pacific is controlled by three carriers: Air Nauru, Continental Airlines and Pacific Island Airways, none of which extend cargo or passenger service southward into the Indonesian-Papua New Guinea area. No direct flight

connexions exist between Guam and Australia. Japan Air Lines (JAL) operates between Tokyo, Osaka and Guam and Philippine Air Lines (PAL) operates between Guam and Manila. The paucity of air communications severely limits the opportunity for Guam to develop as a regional headquarters or cargo distribution centre for the western Pacific. Several airlines however have applied for routes through or to Guam. These are Air Nauru, All-Nippon Air Lines, Cathay Pacific Airways, Continental Airlines, Garuda Indonesian Airways, Qantas Airways, Singapore Airlines (SIA) and Thai Airways International.

86. Civil aviation and general aviation services are underdeveloped. Air cargo businesses are limited by CAB regulations, customs and United States Navy control of facilities. The United States Navy and the Guam Airport Authority provide the only aviation facilities available on Guam. Costs of operation at the Naval Air Station are high. Authorization to utilize its facilities or services must be obtained from the United States Government and involves significant delays and formalities.

13. The Jones Act

87. Waterborne transportation to Guam is limited by the requirements of the Jones Act. These regulations prohibit all non-United States carriers from using Guam except as a final United States destination (i.e. as a domestic port of the United States). Under the Act, Guam is subject to coast-wide shipping laws that prohibit the use of foreign flag vessels to transport cargo between points in the United States. The regulations also prohibit United States flag carriers on this route from receiving subsidies in order to decrease high transportation costs. As a result, freight tariffs between the United States and Guam are significantly higher than those between the United States and other Pacific countries and waterborne access is limited. (It should be noted that the Jones Act applies to Guam and Puerto Rico, but not to American Samoa or the United States Virgin Islands.)

88. The commercial port of Guam is operated as a semi-autonomous agency of the Government of Guam. The port operation is the weak link in the waterborne transport system. Dock space is minimal and cranes, fork lifts and other equipment are either lacking or not adequately maintained. Inefficient port operations, the extremely high user costs and delays in the transfer of cargoes limit the growth of the port and associated shipping distribution services.

89. Public transportation on the island is non-existent. Passenger movement is confined to private vehicles, taxis and tour buses. The public road system itself is less than adequate. Access to many residential areas is poor, and large portions of the interior are accessible only by bullock and jeep trails. Guam has a 90-kilometre highway encircling the island, all of which is in good condition.

14. Public finance

90. In each of the past five years, government operations have resulted in deficits. Between 1977 and 1978 the annual deficit increased by 34 per cent and a similar increase occurred between 1978 and 1979. This deficit will be reduced

by 16 per cent by 1980. The Territory's revenues are classified under four categories: the general fund; "appropriated receipts"; semi-autonomous agency funds; and special funds. The revenue of the general fund includes receipts from taxes, particularly income tax and gross receipt tax, as well as some federal grants. The territorial income tax was established by the Organic Act and is based on the United States Internal Revenue Code. The gross receipt tax is a 4 per cent levy on nearly all business transactions involving goods and services on Guam. This tax was enacted by the Guam Legislature in lieu of a sales tax.

91. General fund revenues for 1979/80 are estimated at \$US 128.8 million, of which it is expected that \$US 111.7 million (87 per cent) will be derived from local sources and \$US 17.1 million (13 per cent) will be in the form of federal grants-in-aid. This compares with revenues amounting to \$US 132.2 million in 1978/79 and \$US 119.6 million in 1977/78. Receipts from autonomous and semi-autonomous agencies, which comprise the second largest source of funds, are expected to amount to \$US 75.9 million. "Appropriated receipts", all of which are federally funded, constitute the third largest source of funds and are expected to total \$US 10.6 million. Lastly, special fund revenues are estimated to amount to \$US 11.1 million. Thus the total revenues of the Government of Guam for 1980 are estimated at \$US 226.3 million, of which \$US 178.7 million (79 per cent) will be from local sources and \$US 47.6 million (21 per cent) will come from the Federal Government.

D. Social conditions

1. Public health

92. The Department of Public Health and Social Services, established by Public Law No. 7-101, is responsible for the provision of medical and social services and also for improving sanitation and living standards throughout the community.

93. The Department maintains a Public Health Pharmacy which provides pharmaceutical services to the public, in addition to a Public Health Nursing Section, a Maternal Child Health-Family Planning Center and a Maternal Child Health Pediatric Clinic at the Public Health Central Facility. The Clinic provides services to all infants (from birth to one year) born to high-risk mothers and in cases of premature birth, low birth weight, failure to thrive, recurrent diarrhoea or gastroenteritis and recurrent respiratory or pulmonary conditions.

94. The dental programme of the Government of Guam is the responsibility of the legally mandated Public Practice of Dentistry. It is responsible for treating all children up to 16 years of age and any emergency which requires the relief of pain or infection. The dental programme tends to be incremental, child-oriented in nature and is augmented by dental auxiliaries who perform all standard dental procedures with the exception of the irreversible cutting of hard or soft tissue.

95. The Guam Memorial Hospital, which was built after the Second World War and dedicated in 1957, has 240 beds and includes tuberculosis and maternity wards. Health care is also provided by the Catholic Medical Center, the Medical Group, the Seventh-Day Adventist Clinic and the Medical Center of the Marianas which was recently bought by the Government of Guam with a grant of \$US 25 million provided by the United States Congress when it passed the Omnibus Territories Bill in

October 1977. The Government of Guam contributed \$US 500,000 in local funds towards the purchase. The hospital, which was opened in 1977, has 128 beds and is used for patients requiring intensive care. The United States Navy also maintains a hospital on the island.

96. In January 1977, the Board of Trustees of the Guam Memorial Hospital signed a contract with Hyatt Medical Management Services to oversee the operation of the hospital and to examine staffing needs, rates and services and to make revisions, if necessary. The Board of Trustees is composed of seven members who are appointed by the Governor and confirmed by the Guam Legislature. The Board establishes the policies of the hospital and the administration carries out these policies. The responsibility for providing care at the hospital rests mainly with the medical staff, which consists of physicians under contract and physicians in private practice who have hospital privileges. In 1977, the medical staff comprised 13 surgeons, 6 internists, 10 obstetricians/gynaecologists, 6 paediatricians, 16 general practitioners, 1 pathologist, 3 anaesthesiologists, 1 radiologist, 1 urologist, 1 neurologist and 3 dentists.

97. Government expenditure on health in 1978 amounted to \$US 16.6 million, or 12 per cent of the expenditure from the Government General Fund.

2. Labour

98. The number of persons employed in Guam reached a record 39,900 in 1973. Since then, following the world-wide economic recession and the United States withdrawal from Indo-China, total employment fell by 9 per cent in 1975 and 14 per cent in 1976. As the Territory's economic conditions improved, owing mainly to reconstruction projects following typhoon Pamela and the implementation of federal anti-recession programmes, employment rose by 2.5 per cent in 1977 and by an estimated 6.4 per cent in 1978. In March 1977, approximately 55 per cent of all civilian wage-earners were employed in the private sector while the remaining 45 per cent were employed by the local and federal Governments.

99. According to the Guam Annual Economic Almanac, 1979, the civilian labour force rose from 26,900 in September 1976 to 29,090 in September 1977 and to 32,000 in September 1978. Of the new workers entering the labour force between 1977 and 1978, almost half (1,400) were adult women. The proportion of women in the labour force was between 35 and 36 per cent. Almost 49 per cent of the adult women on Guam were working as of March 1978. The proportion of teenagers in the labour force was 7 per cent in 1976 and in 1977. It rose to 9 per cent as of September 1978.

100. The percentage of unemployed persons declined from 8.6 per cent of the labour force in September 1976 to 7.8 per cent in September 1977 and to 7.6 per cent in September 1978. The number of unemployed persons, however, increased by 180, from 2,260 in 1977 to 2,440 in 1978. Unemployment among teenagers increased from 26.4 per cent in September 1977 to 30.8 per cent in September 1978. Unemployment among adult women in the labour force increased from 9.7 to 10.3 per cent, while that of men fell from 4.1 to 2.7 per cent during the same period.

101. In March 1977, over 5,000 non-immigrant alien workers were permitted to work on a temporary basis in various industries under the provisions of the federal

H-2 programme. These workers accounted for 16 per cent of the total labour force. A heavy concentration of non-resident aliens was reported in the construction industry (74 per cent) and the agricultural sector (64 per cent). In June 1977, a United States Government report charged that the alien labour situation in Guam was not in the public interest and that "foreign workers admitted to Guam depress the wages and working conditions of domestic workers; firms that employ foreign workers (the firms themselves are often foreign-based) have an unfair competitive advantage over United States firms". New federal guidelines designed to stem the flow of temporary alien workers were implemented in July 1977. Under the new regulations, an employer may not request permission to employ an alien worker until he has certified that a skilled worker is not available on Guam, in Hawaii or on the west coast of the United States. The United States Department of Labor, which is responsible for the final approval of the issuance of work permits to aliens, assigned an officer to Guam for that purpose to replace labour officials based on the west coast of the United States.

102. Several measures have been undertaken to encourage local participation in the construction and agricultural industries. Following a 1977 study prepared by the United States Department of Labor which analysed the effects of the alien labour force on local wages and working conditions, the Department instituted a series of wage increases which would double the 1977 wage rate over a two-year period. In January 1978, the territorial Labor Department and the Guam Contractors Association signed a memorandum of understanding to expedite the processing of applications for alien construction workers. The memorandum was prompted by a backlog of applications from contractors, seeking to bring some 2,500 workers into Guam.

103. Government programmes to upgrade the education and training of local residents were strengthened. In addition to the Guam Community College, two other entities were created in 1977 to improve the effectiveness of Guam's manpower development programmes: The Agency for Human Resources Development and the Manpower Services Council. At present, Guam is participating in various training programmes authorized by the Comprehensive Employment and Training Act (CETA), the Work Intensive Program and the Senior Community Service Employment Programs. In view of the large proportion of the population which is of school age, an increase in local employment opportunities is considered essential in order to ensure the well-being of Guam in the coming years. Assuming that the present trend continues, growth in employment is expected to occur in the private sector, particularly in the construction, wholesale and retail trades and the service industries. At present, the military establishment and the territorial Government are the largest employers on Guam.

104. Total personal income in Guam has grown from \$US 142 million in 1970 to \$US 299 million in 1975. Although per capita, personal and disposable income increased by 65 per cent in absolute terms, they remain much lower than the United States average. A family income survey conducted in 1977 showed an average cash income of \$US 16,405 for a family of five, which represents a 13.8 per cent increase over 1976. The survey excluded all military personnel, the families of military personnel living on military bases and non-immigrant aliens. Approximately 24 per cent of the 16,850 families on Guam had incomes under \$US 7,000; 23 per cent had incomes between \$US 7,000 and \$US 12,999; 24 per cent between \$US 13,000 and \$US 19,000; and 29 per cent over \$US 20,000.

105. Although the average wage in the private sector increased by 6.5 per cent from \$US 3.70 per hour in January 1977 to \$US 3.94 in January 1978, it is still

23 per cent lower than the average wage in the United States. Real earnings, however, fell 3.1 per cent because of inflation and the reduction of the average number of hours worked per week. Employees of the Government of Guam received an across-the-board salary increase of \$US 1,400 between 1977 and 1978. Federal employees received a 15 per cent cost-of-living allowance until March 1978, when it was reduced to 10 per cent.

106. Because of Guam's location and its heavy reliance on imports, the cost of living is higher than in most United States communities. Guam's prices for the remainder of 1979 and 1980 are expected to follow the inflationary trends of its major suppliers of goods, particularly the United States and Japan. Estimated monthly housing costs, including utility charges, in Guam are between \$US 234.97 and \$US 684.97.

E. Educational conditions

107. Education is compulsory for children between 6 and 16 years of age. There are 37 public schools, including 28 elementary schools, a trade and technical school and a school for the handicapped. Other schools are operated by religious missions.

108. School enrolment for 1978/79 totalled 31,023 compared with 32,165 in 1977/78. Of the total enrolment, 25,791 students attended public schools and 5,232 were in private schools. The breakdown of students by category and educational level of schools for the academic year 1978/79 is as follows (figures in brackets are for 1977/78): public elementary schools, 15,580 (15,989); parochial and private elementary schools, 2,879 (2,585); public junior high schools, 5,934 (6,045); private junior high schools, 1,227 (1,221); public senior high schools, 4,277 (5,346); private senior high schools, 1,126 (979).

109. In 1978/79 a total of 2,468 students were enrolled at the Guam Community College, (see para. 122 below). The University of Guam had an enrolment of 1,657 full-time students, (1,923 in 1977/78) and 854 part-time students (2,420 in 1977/78). There were also 568 off-campus students and 25 late enrolments, bringing the total number of students enrolled to 3,104. There were 162 students from Micronesia attending the University of Guam, compared with 238 in 1977/78. In addition, during 1978 a total of 140 students were enrolled in the apprenticeship programme of the United States Navy as follows: 67 at the Public Work Center and 73 at the Ship Repair Facility.

110. In 1978/79 the public schools employed 1,328 teachers (1,186 in 1977/78), of whom 769 (677 in 1977/78) were teaching in the elementary schools and 559 (509 in 1977/78) were teaching in the secondary schools. The cost of operating Guam's public-school system amounted to \$US 42.5 million in 1978/79, compared with \$US 42.1 million in the previous year.

111. The public elementary schools provide education for children from the kindergarten level through sixth grade and include special educational classes. The core of the curriculum in the public schools is augmented by federal programmes, such as the Bilingual-Bicultural Program, in which instruction is given in both English and Chamorro (see para. 121 below), the Remedial Reading Program and Remedial Mathematics Program. A school district testing programme is implemented

and monitored by the guidance counsellors. Counselling services are made available to all students. Health counsellors provide health education programmes as well as other health-related services in co-operation with the Department of Public Health and Social Services. Many of the elementary schools have organized parent-teacher associations which are actively involved in supporting school functions. A school lunch programme operates in all the public schools, with about 62 per cent of the students participating. Approximately 46 per cent of all lunches are served to students eligible for free and reduced price meals.

112. The Teacher Corps Inservice Education Project is a joint venture of the University of Guam and the Guam Department of Education and is fully funded by the United States Government. It provides in-service training, extension courses and graduate training for practising teachers. For students training to become teachers, there is the Guam Teacher Corps programme which is part of a federal programme designed to encourage colleges and universities to broaden their programmes of teacher preparation. The Guam Teacher Corps programme is almost entirely federally funded and is jointly sponsored by the University of Guam, the Department of Education and the Guam community.

113. The Guam Teacher Corps programme covers the undergraduate junior and senior years at the University and culminates in a Bachelor of Arts degree in secondary education with emphasis on mathematics and sciences, stressing the education of exceptional children in a regular classroom setting. The programme covers all of the University costs, with the exception of books and supplies. In addition, interns receive stipends of \$US 140 per week and \$US 15 per week for each dependant, plus comprehensive health insurance.

114. The University of Guam is the major institution of higher education in the Western Pacific. It is a land-grant institution accredited by the Western Association of Schools and Colleges. The University's history dates back to June 1952, when the Government of Guam established the college of Guam as a two-year teacher-training school under the Department of Education. The College had an initial enrolment of 200 students and a staff of 13. In 1963, administrative control of the College was transferred from the Department of Education to a five-member governing Board of Regents, and in 1968 the College was renamed "University of Guam" by an act of the Guam Legislature.

115. Administrative autonomy was granted to the University by Public Law 13-194 on 4 October 1976. The statute, "The Higher Education Act of 1976", which became effective on 3 November 1976, established the University as a "non-membership, non-profit corporation" under the governance, control and operation of a seven-member Board of Regents. The regents are appointed by the Governor, with the advice and consent of the Guam Legislature, to serve four-year terms.

116. Generally, most of the University's departments and academic support units have been constrained from expanding their programmes and services because of budget limitations which have affected all the University's operations, especially with respect to personnel needs, supplies and equipment. The lingering after-effects of typhoon Pamela also contributed to the problems of the University.

117. The University of Guam offers programmes of graduate work leading to the following degrees: Master of Arts in art, behavioral science and history; Master

of Arts in education, with a major in English, general social science and political science; Master of Business Administration; Master of Education in administration and supervision, counselor education, curriculum and instruction and reading; Master of public administration; and Master of Science in biology. The graduate school is authorized to accept graduate credits transferred from the graduate schools of other colleges and universities which have been approved by one of the accrediting agencies in the United States.

118. Tuition and other fees at the University of Guam are determined by the Board of Regents and in 1979 amounted to \$US 22 per credit for resident tuition and \$US 33 per credit for non-resident tuition.

119. Recognizing the need to define its mission, the University of Guam, in 1979, established a Co-ordinating Commission to which it entrusted the task of drawing up a long-range academic plan for the University. The membership of the Commission was drawn from the representative group of administrators and faculty members who attended a seminar workshop from 2 to 6 January 1979 on "academic planning and leadership" conducted by a team of consultants from the University of Southern California.

120. The Commission recognized, inter alia, that the University should commit its resources towards greater involvement in the Western Pacific. The University provides services to a large area, including the Trust Territory of the Pacific Islands. The Commission recommended the establishment of a "Pacific Center for Training and Development", to co-ordinate technological training and development planning for insular areas. The Mission was informed that the University, recognizing its responsibility in the Western Pacific, proposed to work with each of the Governments and educational institutions in the Western Pacific in order to further define the University's role as a member of the regional educational network and to negotiate specific instructional, research and service programmes which could be implemented on a complementary and mutually beneficial basis.

121. The Bilingual-Bicultural Programme, which was implemented at Inarajan Junior High School in January 1977, provides bilingual classes to approximately 115 students in the seventh to ninth grade levels. The children receive instruction in both English and Chamorro, utilizing existing materials produced by the Elementary Bilingual Project and Chamorro Language and Culture Program. The community development aides work with the teachers in registering the children and identifying adults with special skills who could participate in the programme. They also assist in producing materials and in documenting Chamorro history and Guam legends. Chamorro Week festivities are held in most high schools. At the elementary level, the Bilingual-Bicultural Program has been introduced in five schools, to approximately 320 students from the kindergarten to the fourth grade levels.

122. The Guam Community College was formally created by the Community College Act of November 1977 and officially opened on 1 July 1978. The College grants high school equivalency diplomas, high school diplomas and associate degrees in arts and science. It was accredited on 20 June 1979 by the Junior College Commission of the Western Association of Schools and Colleges. The College is also a manpower training institute providing short-term and long-term training programmes in a range of occupational skills as well as external programmes of community education.

123. The College consists of two campuses. One is located at Mangilao and houses

the Vocational High School Division, the College administration and the Apprenticeship Training Division. Twenty-one shops and related classrooms are located on this campus, which covers nine hectares. The second campus is located at Agaña, and consists of a leased facility housing the School of Science and Technology, the Bureau of Human Services and the Careers and Public Services Division.

124. The College has approximately 175 teachers, a support staff of 100 (clerical, custodial, processing) and 10 administrators. Student enrolment totals 2,500 and is distributed as follows: community education, 1,000; vocation education, 900; technical education, 450; and industrial education, 150. In addition, 200 students are enrolled in special projects. The College operates on an annual budget of \$US 5.1 million, \$US 3.8 million of which is derived from local appropriations, while the remaining \$US 1.3 million is made available by the federal Government under CETA. In addition, an average of \$US 350,000 is provided each year under the Vocational Education Act and \$US 275,000 is made available under the Adult Education Act to defray local operating expenses. Tuition fees are \$US 15 per class (adult education) or \$US 5 per credit (post-secondary); in addition, a charge of \$US 5 is payable per semester for student services. Full-time students pay \$US 65 per semester for attendance.

II. THE CONSTITUTIONAL REFERENDUM

A. Background to the referendum

1. 1976 referendum on political status

125. On 9 July 1976, the Guam Legislature passed a bill calling for a referendum on the political status of Guam to be held on 4 September 1976, in conjunction with the Territory's primary elections. Voters were presented with five options concerning Guam's future political status: (a) to remain an unincorporated Territory of the United States; (b) to remain a Territory with a separate constitution; (c) to declare independence from the United States; (d) to become a state within the Union; or (e) to choose some other form of relationship with the United States. The voters were then asked to choose the political status which, in their opinion, was most beneficial for Guam.

126. On 4 September 1976, 27,004 people, or 74 per cent of the registered voters, went to the polls. Of these, only 17,607 voted for one or other of the five options in the referendum. The results were as follows:

<u>Option</u>	<u>Valid votes recorded</u>	<u>Percentage</u>
(a)	1,586	9
(b)	10,221	58
(c)	1,004	6
(d)	4,185	24
(e)	611	3

127. Although sponsoring the referendum, the majority of the members of the Political Status Commission, a bipartisan group of 15, believed that Guam should continue as an unincorporated Territory of the United States but with a separate constitution and compact, more commonly called a Federal Relations Act, to set in writing the terms of Guam's relationship with the United States. They favoured that option because it would exempt Guam from certain trade and transportation laws which restrict the Territory's economic growth, while preserving the right of Guamanians to United States citizenship, as well as to receive the federal benefits currently extended to Guam, benefits which the Territory would lose if it became a state within the Union or an independent nation. Despite its position, however, the Commission was obliged, by law, to respect the choice made by the people of Guam in the referendum on political status.

128. The Political Status Commission said that the status for which the voters had opted would permit Guam to continue its close relationship with the United States while seeking to improve portions of the Organic Act, which had been the basic law of the Territory since 1951. Guam should not be allowed to bargain away its right to receive federal grants-in-aid and to retain all federal income taxes paid in Guam. The Commission stated that any changes in Guam's relationship with the United States would have to be approved by the Guamanians at subsequent elections.

129. In 1977, the Political Status Commission received an appropriation of \$US 25,000 in order to achieve the following goals under an "improved political status" plan: (a) exemption of the Territory from the Jones Act, a maritime shipping law, and from federal regulations which prohibit some foreign carriers from landing on Guam; (b) amendment of provisions of tariff laws so that more merchandise produced in Guam could enter the United States duty-free; (c) exemption of the Territory from federal income tax provisions so that it could construct its own territorial income tax structure; (d) an increase from \$US 200 to \$US 400 of the duty-free allowance for United States tourists leaving Guam, which would provide a substantial inducement for United States travellers to visit Guam; (e) limitation of the number of resident aliens admitted to Guam; (f) control of the entry of non-immigrant aliens into Guam; (g) the return to Guam of all federally owned land if its use by the federal Government cannot be justified within five years; (h) limitation of the power of the federal Government to acquire land on Guam to ensure that all other possibilities have been explored before the United States can acquire land; (i) suspension of the statute of limitations for one year, to enable complaints to be filed in the District Court of Guam concerning land acquired on Guam by the federal Government after the Second World War; and (j) increased political autonomy from the United States, including a separate constitution.

130. In September 1976, the United States House of Representatives approved a final version of a bill to authorize the people of Guam and the United States Virgin Islands to write their own constitutions. Under the terms of the bill, each territorial legislature would be authorized to call a convention to prepare a draft constitution. Members of the convention would be chosen according to local laws which would be enacted after the President of the United States had approved the bill.

131. According to the bill, the constitution of each of the Territories should provide for a republican form of government, a bill of rights, a system of judicial courts and such modifications of those portions of the Organic Act relating to local self-government and consistency with the United States Constitution and with other aspects of federal law as the constitutional convention might deem necessary.

Following completion of the draft constitution, the convention would present it to the Governor for submission to the President of the United States, who would then have 60 days in which to comment upon it. After finally reviewing the draft constitution, the United States Congress would submit the document to the qualified voters of the Territory concerned for their approval or rejection through a referendum, to be conducted under the provisions of local laws. Approval would be required by a majority of the voters before the draft constitution became law.

132. At the request of the Guam Political Status Commission, Mr. Fred Zeder, then Director of the United States Office of Territorial Affairs, was chosen by the United States Government to negotiate with the Territory's representatives in regard to the provisions of the draft constitution of Guam.

2. Constitutional Convention

133. On 10 December 1976, the Governor of Guam signed into law a bill calling for the convening of a constitutional convention in 1977. Under the terms of the law, the convention was to draw up a draft constitution for Guam (to replace the Organic Act of 1950, as amended), which would recognize the sovereignty of the United States over Guam and provide for a three-branch territorial Government. The constitution was to be drafted between 1 July and 31 October 1977 by 40 delegates who were elected on 16 April 1977, and was to be presented for approval to the President and Congress of the United States, as well as to the Guam electorate.

134. The President of the Constitutional Convention, the Chairman of the Political Status Commission and the Committee on Federal Territorial Affairs jointly requested the administering Power to send a United States official to Guam to assist in drafting the constitution.

135. At a news conference held early in July 1977, Mr. Antonio B. Won Pat, the Delegate of Guam to the United States Congress, warned the Convention delegates that if they proposed to redefine Guam's relationship with the United States, they might have difficulty in obtaining the approval of the United States Congress. In his opinion, the Convention had no legal authority to make such a proposal, which would not be considered by Congress. In a statement before the Convention, Mr. Won Pat declared that, although the federal Government had authorized Guam to write its own constitution, it was questionable whether that authority included local determination of United States laws applicable to Guam.

136. Among the proposals made by the delegates to the Convention were the following: (a) United States citizens should neither own nor lease land, nor operate a business in the Territory unless they had lived there for five years; (b) Guam's relationship with the United States should be re-examined with the view to repealing the application of certain United States laws thought to be harmful to the economy; and (c) only native-born Guamanians or their direct descendants should be eligible to hold the office of Governor or Lieutenant Governor. f/

f/ According to the Organic Act, no person shall be elected to the Office of Governor or Lieutenant Governor unless he is an eligible voter and has been, for five consecutive years immediately preceding the election, a citizen of the United States and a bona fide resident of Guam.

137. Following rejection by most delegates of a provision to create a two-house legislative body, the Convention voted to retain the existing unicameral system. . . . Most proposals calling for a two-tiered legislature were aimed at setting up a lower house, made up of village commissioners, so that political power could be shared by local authorities. Other delegates had suggested the strengthening of village governments by creating village mayors and councils. The village commissioners preferred, however, to be given increased administrative powers in their respective villages.

138. On 25 August, the judges of Guam met with Convention delegates to consider the proposed judicial article. They were unanimously opposed to changing the name of the Superior Court of Guam to "Island Court", as the article proposed, because, in their view, the public might think of it as a rural or municipal court, rather than a court of general jurisdiction. One of the recommendations made by the judges would allow them to sit for longer than two years after their appointment and prior to their being nominated for re-election. They considered that the impeachment and removal clause for judges was too strict and questioned the six-year residency requirement for judges. Although the judges agreed that the United States Ninth Circuit Court of Appeals should hear cases on appeal from the newly created Supreme Court of Guam, they failed to agree on the types of cases to be appealed.

139. In September, a draft constitution was circulated to all 19 villages for consideration at local meetings.

140. On 28 October, the Constitutional Convention adopted a proposal for a 22-member legislature to be elected from 10 electoral districts based on the number of registered voters rather than the number of residents, thus guaranteeing representation for the smaller villages in the southern part of the island. The Convention also approved a proposal to give the Supreme Court of Guam the responsibility for reorganizing the electoral districts in the Territory.

141. On 29 October, a series of public hearings conducted by the Convention in each of the villages was completed. The last of the village communities consulted, the inhabitants of Inarajan, were strongly in favour of adding a "native-born" restriction to the qualifications of candidates for Governor and Lieutenant Governor, a point repeatedly raised at the hearings since mid-October. The indigenous Chamorro residents also wanted more control over the direction of development in the Territory.

142. Although the subject was not included in their mandate, Convention delegates made proposals on how to improve relations between Guam and the United States. One of the Convention's major concerns was immigration. Throughout the sessions of the Convention and at the public hearings, criticism of the large numbers of aliens, especially Filipinos, was closely tied to issues concerning the Chamorro culture. Delegates approved proposals which would give the Government of Guam the authority "to restrict entry into the island pursuant to the actions of the Government of Guam ... to protect the lands, customs and culture ... and to expand economic opportunities in Guam". There were also proposals for more local administrative autonomy.

B. Conduct and results of the referendum

143. As stated earlier, the Visiting Mission arrived in Guam on 30 July 1979, only a few days before the holding of the referendum which was scheduled to take place on 4 August. The members of the Mission utilized much of the intervening period to acquaint themselves with the arrangements which had been made and also to obtain the views of representative groups. A more detailed account of the discussions is contained in the following section.

144. On 31 July, the Mission met with the Education Committee of the Constitutional Convention, which was responsible for familiarizing voters with the issues involved, and subsequently attended a public seminar for voters organized by the Committee in the village of Medero.

145. On the following day, 1 August, the Mission met with Mr. Joe Mesa, the Executive Director of the Guam Election Commission, which was charged by the Guam Legislature with the administration and conduct of the referendum. Mr. Mesa explained the procedures for voting, which would take place at 19 polling stations throughout the Territory.

146. On the day of the referendum, the Mission visited several polling stations, where it was able to ascertain that the voting was orderly and that voters were able to cast their ballots in secret and in accordance with the electoral law. The Mission's detailed observation on the conduct of the referendum is set out in section IV below.

147. Of a total of 27,000 registered voters, only 46 per cent took part in the vote. Of the valid votes cast, 2,233 voted for the draft constitution, and 10,315 voted to reject it.

148. One other issue, which was also submitted to a popular referendum at the same time, namely a proposal to reinstate capital punishment, was defeated by 6,876 votes to 6,002, the total number of votes cast (12,878 being slightly more than those cast in the constitutional referendum (12,548).

III. ACTIVITIES OF THE VISITING MISSION

149. The Visiting Mission began its official work on 27 July 1979 in Washington, D.C., where it held a meeting with Mr. Won Pat, the Delegate from Guam, to the United States Congress, at his office in the presence of three of his aides. The Chairman of the Mission explained the programme and functions of the Mission. Mr. Won Pat informed the members of the Mission that the opponents of the draft constitution were gaining ground on Guam. He said that during the 1976 referendum, 80 per cent of the Guamanians had voted in favour of improved relations with the United States and that only 4 per cent had voted for independence. He briefed the Mission on the political, economic and educational conditions on Guam and told the Mission that Guam depended too much on the military bases for its economy, and that the major employers were the Government of Guam, the Federal Government and the bases. He said that without the military activities, Guam would not be able to survive economically and that in order to build viable economic structures, the Territory should not be closely subject to federal control. In his opinion, the Jones Act was the worst example of federal interference in the affairs of Guam. The control of immigration was another example. Mr. Won Pat complained that over 50,000 Guamanians were living in the United States and that that

represented a serious "brain drain". He also cited the lack of light industries and of capital in the fishing industry as impediments to Guam's economic and social progress. Mr. Won Pat and his aides said that they would like the University of Guam to play a larger role in the Pacific area, as a regional centre of "island technology". Finally, Mr. Won Pat stated his view that independence would not be a viable solution for Guam.

150. During its visit to Washington, the Mission met at a luncheon with Mr. Charles W. Maynes, Assistant Secretary of State for International Organizations, and thereafter it had a meeting with Mr. George Milner, Deputy Director, Office of Territorial Affairs. At the latter meeting, the Mission heard the views of the administering Power concerning the referendum and the current situation on Guam. Mr. Milner gave a brief historical account of the political evolution of Guam and then said that he thought the people of Guam had recently become very concerned about their political identity and that for them the main issue in the referendum was not the draft constitution but the Territory's future status. He acknowledged that Guamanians wanted an end to federal constraints on shipping and airline operations. They also wanted federally owned lands returned to them. In his opinion, the questions of immigration and its consequences were of paramount importance. Mr. Milner mentioned that about 20,000 people were employed by the administration in Guam, and he explained some of the administrative as well as legal relationships between Guam and the United States. He also informed the members of the Mission that Guam was seeking \$US 9 million from the Federal Government and other funding sources, and that \$US 3 million were to be allocated soon for the extension of Apra Harbor.

151. During its stay in Guam, the Mission was provided with detailed information and background material about the referendum and other political and constitutional questions, as well as about economic and social conditions in the Territory.

152. On 31 July 1979, the Visiting Mission held its first official meeting in the Territory with the Governor, the Lieutenant Governor and members of their staff. The Chairman explained the programme and functions of the Mission and made clear that the Mission was in the Territory at the invitation of the administering Power both to observe the referendum on the draft constitution which would take place on 4 August 1979 and to acquire first-hand information on the economic and social conditions in the Territory. Mr. Paul Calvo, the Governor, welcomed the Mission and explained that, in his opinion, the draft constitution did not address itself to all the issues facing Guam (i.e., immigration, maritime laws, etc.). However, he shared the opinion that the draft constitution could be a means of leading the Territory towards union with the mainland. The situation was different from that of the Northern Marianas Islands, for example, because Guam was already part of the United States family. He thought that the case of Guam was more like that of the United States Virgin Islands. The Governor, answering a question put to him by the Chairman regarding the controversy over the judicial system, expressed the wish for direct access by the Territory's courts to the United States Supreme Court.

153. Mr. Calvo said that, although he agreed with the United Nations that Guam was too dependent on the military establishment, he considered that there had been progress towards economic diversification in the last decade. He mentioned various efforts being made towards that goal, in particular the Conference of Island Governors which would be convened in Hawaii by the United States Department of Commerce in order to work out a common economic development plan for the United States Virgin Islands, the Northern Marianas Islands, Guam, American Samoa and

Hawaii. The Governor said that among the factors exercising constraints on Guam's development towards self-sufficiency were the Jones Act, the federal immigration policy and the occupation of lands by the military. Guam paid federal taxes which were considered territorial taxes, but would like to be able to collect its taxes itself. The current taxation situation was, according to the Governor, somewhat similar to colonialism in that it deprived Guam of its right to collect its own taxes. Stating that very little was being done by the Federal Government towards economic diversification and acknowledging that Guam was strategically very important to the United States, the Governor expressed his personal views on the future political status of Guam. He said that he favoured an association with other Micronesian islands, such as the formation of a Micronesian State with Guam as the seat of Government. In other words, he favoured statehood together with the Micronesian entities.

154. The Lieutenant Governor complained that the Department of the Interior was currently allocating only \$US 3 million for economic development in Guam. He also said that various departments and agencies of the Federal Government had jurisdiction in Guam but each in its own area of responsibility. The Government of Guam was in favour of a co-ordinated approach and the harmonization of activities through a unified decision-making process so that Guam's problems could be tackled globally. The Governor complained that job discrimination hurt Guamanians. He blamed that situation on the immigration laws, which had been written in Washington without taking Guam's views into consideration. He also told the Mission that the delegates to the Constitutional Convention had been instructed on what to consider or to reject.

155. The Visiting Mission also had an opportunity to meet with Guam's senators who said that they did not understand why the United Nations had been absent during the 1976 referendum. The Chairman explained the functions of the Mission and told them that an invitation had not been extended to the United Nations in 1976. There appeared to be some confusion and misunderstanding at the meeting. Many of the senators had not been accurately informed about the functions and role of the United Nations with regard to Guam and many took the opportunity to declare their loyalty to the United States. Others said that they were not satisfied with their Government and complained that, because of federal regulations, Guamanians were unable to control and regulate their own fishing industry. One senator said that in order to obtain funds, the Guam Legislature had to vote the way it was told.

156. During the same meeting, a senator stated that, although they had demonstrated their patriotism, the people of Guam had been oppressed for a long time. She said that Guam had given more than one third of its land to the United States Department of Defense, which was using that land to store nuclear weapons. She asked that the people of Guam should be accorded their full rights and told the Visiting Mission that Japan had negotiated a settlement with the United States concerning war damage claims on behalf of the Trust Territory of the Pacific Islands, but had not done so on behalf of Guam, which had suffered as heavily, if not more. She also said that a cultural infrastructure had not been created to help Guamanians affirm their identity.

157. Another senator informed the Mission that a delegation of the Eighth Guam Legislature had wanted to visit the United Nations but had been "politically destroyed". He complained about the State Department and asked the members of the Mission whether the United Nations had any influence with the United States Government. He said that the latter had entered into agreements with other Pacific countries without consulting the Guamanians and that the Guamanians were very concerned whenever the Government of the United States held discussions with countries in the region.

158. The senators informed the Mission that they did not receive copies of United Nations resolutions concerning Guam. They wanted to know if they had rights to the economic resources around them. They asked why the United States did not offer its Non-Self-Governing Territories the option of integration with the United States.

159. The Mission also met with a group of opponents of the draft constitution known as the PARA-PADA' Coalition (Peoples Alliance for Responsive Alternatives-Peoples Alliance for Dignified Alternatives). The representatives of the Coalition told the Mission that they felt the people on Guam were ignorant of the different options which the United Nations guaranteed for them. The aim of the Coalition was to keep all options open. They said that the people of Guam had been very healthy and self-sufficient before the arrival of Europeans but that over the next 400 years the population had decreased by 90 per cent owing to various causes. Between 1890 and 1900, however, the population had doubled. Their group was dedicated, they said, to ensuring the people's sovereign right to make their own choice because at the time of the 1976 referendum the ramifications of the five options offered had not been explained. The group's strategy was first to defeat the draft constitution and then to launch a political education campaign on the different constitutional options available to Guam. They thought that the draft constitution sought to perpetuate Guam's colonial structures and its economic dependency on the military bases and tourism. Approval of the constitution would legitimize the Organic Act. PARA-PADA' complained that the Guamanian's ability to participate in international organizations was very limited.

160. The Mission also met with the members of the Education Committee of the Constitutional Convention, who informed the Mission that an appropriation of \$US 70,000 had been made available to it by the Legislature for the purpose of political education. The goal of the Committee was to create political awareness and to bring to the polls at least 60 per cent of the registered voters. The Committee had translated the draft constitution into Chamorro and had made extensive use of television and radio to disseminate information. It had also conducted village workshops. As the only newspaper on Guam, the Pacific Daily News had a virtual monopoly, and information in the Chamorro language was not readily available. The members of the Committee thought that very few of the managers of the news media had sympathy with the Chamorro language. They told the Chairman of the Mission that during their campaign they had found that criticism of the Enabling Act was stronger than criticism of the draft constitution. The question that had been put to them most often was whether voting for the draft constitution would definitely close all other political

options to the people of Guam. They stated that the 1976 referendum had been a creation of the Guam Legislature and had never been formally recognized by the United States. They said that the breakdown of voters according to origin was approximately as follows:

	<u>Percentage</u>
Chamorro	56
Philippines	19
United States	9
Others	16
	<hr/>
	100

161. The Mission witnessed a seminar at Merizo organized by the Education Committee of the Constitutional Convention.

162. The Executive Director of the Guam Election Commission said that in order to qualify to vote, a person must be 18 years of age by election day, must be a citizen of the United States and must not have been convicted of any crime. There were no residency requirements. Illiterate voters would be assisted by two polling officers, one of whom would mark the ballot and the other would witness that that had been done in accordance with the voter's choice. There were 10 blank ballots issued for every eight registered voters. The voting would take place on 4 August 1979 from 8 a.m. to 8 p.m. The voters would have to sign the voters' registration book. There would be no poll observers and the counting would be done manually. In addition to those explanations, the Executive Director answered questions put to him by members of the Mission and provided detailed background material about the conduct of the referendum.

163. The Visiting Mission met with members of the Village Commissioners' Council to explain the purpose of its visit. The commissioners asked whether the United Nations had previously attempted to send a visiting mission to Guam. The Mission replied that each year the Special Committee called on the administering Power to accept a visiting mission. The commissioners also said that although they would not choose any other form of Government, they felt that the options offered to the Guamanians were limited. They felt that the Guam Legislature should not have accepted the Enabling Act passed by the United States Congress, directing it to draft a constitution. The majority of the commissioners were against the draft constitution, because they thought it had been written by people aspiring to political office and therefore did not deal with the vital issues such as immigration, shipping laws, welfare provisions, etc. The commissioners asked what would happen to the Guamanians in case of war. They felt that the unused land in the possession of the military should revert to the people of Guam.

164. The Mission visited three religious leaders of the Territory (two Catholics and an Episcopalian) and discussed recent political activities on Guam. The religious leaders thought that the people of Guam wanted foremost to have a say in the running of their own affairs "under the United States flag". They said that people on Guam wanted to have more rights as United States citizens, more representation, the ability to vote for the President of the United States, etc. They thought that the majority of Guamanians (95 per cent) would vote for closer relationship with the United States and that only a very small group wanted independence. People in general would opt for statehood but that, being aware of the difficulties in obtaining that status, they would adopt a gradual approach

towards that goal. Steps could be taken in that direction, such as obtaining the right to vote for the President of the United States, the right to have a voting representative in Congress, etc. They felt that the people of Guam were rather apathetic towards the coming referendum for diverse reasons, such as the successive postponements and the fact that the referendum did not deal with personalities or local political issues. They thought, however, that after the results of the referendum were known there would be more active political interest, particularly with regard to the future political status of Guam.

165. With regard to education, they informed the Mission that the private schools run by the churches concentrated more on academic education than technical or trade skills. About 20 per cent of the school population, from kindergarten to high school level, were registered in religious schools. The three clerics told the Visiting Mission that they were in favour of having the military bases remain on Guam for defence reasons.

166. While in Guam, the Visiting Mission made well known its readiness to meet with any individual Guamanian who wished to speak with it. One of the few people who appeared before the Mission said that Guamanians did not know their status nor did they understand the draft constitution. He said that some considered Guam to be a colony. Referring to the Hepburn Report of 1938, which had stated that Guam would be expensive to defend in case of war, he recalled that the report had served as the basis for the evacuation in 1940-1941. Presumably, the same thing would happen in case of another conflict. He said that, in 1976, the Assistant Director for Territorial Affairs had reportedly declared that there was no future political status for Guam. The petitioner also thought that the Enabling Act was an outrageous document because of the limitations which it imposed on the constitutional options open to the Guamanians. It should be clearly stated what options were available. Guam owed the Federal Government, through the rehabilitation debt, between \$US 80 million and \$US 90 million.

167. At a meeting with the supporters of the draft constitution, the Mission was asked whether the different options would remain open following ratification of the draft constitution, and whether the United States would continue transmitting reports to the United Nations on Guam as a Non-Self-Governing Territory in accordance with Article 73 e of the Charter of the United Nations. They thought that the United Nations should not consider the United States military presence on Guam. They wondered why the Special Committee had not insisted on removing Guam from the list of Non-Self-Governing Territories. In their opinion, Guam should not be so listed because they felt that the people of Guam had already made their choice in 1976 and that they were now self-governing. They accused the Visiting Mission of being on Guam for the purpose of intervening in the referendum on the draft constitution. They reported that PARA-PADA' had stated on television that the Visiting Mission had told the people that the options on their future political status remained open. They thought that such a statement would influence the outcome of the vote. They wanted the United Nations to know that 91 per cent of the people of Guam wanted to become 'first-class American citizens'. The Organic Act was a sequel to colonialism and the only way to erase it was for the people to vote in favour of the draft constitution. They also called on the United Nations to assist the Guamanians to stabilize their economy and to ensure their self-sufficiency.

168. During its stay in the Territory, the Visiting Mission took the opportunity to visit most of the villages and held talks with the village commissioners as well as with the people. It also visited Andersen Air Force Base. According to the military officer accompanying the Mission, that was the only Strategic Air Command

(SAC) base outside the continental United States: he stated further that the base was the headquarters of the Forty-third Strategic Wing and that the land occupied by the base was valued at \$US 173 million. The military population, including families, of the base was 10,000 and it occupied 14 per cent of the total land on Guam. He also told the Mission that the Navy occupied one third of the land of Guam. There were 14 B-52 aircraft at the base, compared with 156 during the Viet Nam war. The officer said that Andersen Air Force Base employed 3,600 military personnel and 600 civilians. At the end of its tour of the base, the Mission visited the nearest village, Dededo, which, with close to 35,000 inhabitants, was the largest on Guam. The village commissioner of Dededo told the Mission that he would not contemplate the departure of the military personnel because they represented the main source of income for his village.

169. The Visiting Mission was briefed on GEDA by its administrator who said that it was a semi-autonomous public corporation, with a staff of 20. Its purpose was to act as a catalyst to enhance economic development on Guam. It encouraged domestic private enterprises as well as foreign companies settling on Guam. The administrator told the Mission that there was a master plan for the economic development of Cabras Island which would be transferred to the Government of Guam following the relocation of the ammunition wharf. He said that GEDA had no programme for the development of marine resources. GEDA had helped to establish the Guam Oil Refinery Corporation (GORCO), which was controlled by private investors from Texas (77 per cent) and from Guam (23 per cent). The refinery, the Mission was told, employed 300 people and was intended only to serve the needs of the military, although it was providing some oil for civilian use. According to its administrator, the main task of GEDA was to identify the various sites available on Guam for private enterprises and then provide incentives for the installation of those enterprises.

170. One of the incentives used by GEDA was the creation of a tax haven which allowed it to rebate 75 per cent of corporate taxes for 20 years, all real estate taxes for 10 years and 75 per cent, for up to five years, on taxes paid on dividends by investors who are local residents. The administrator informed the Visiting Mission that GEDA was in the process of completing a 10-year economic development plan. He also said that GEDA had taken part in the "Green Revolution" promoted by the former Governor. The administrator then took the members of the Mission on a tour of Cabras Island.

171. The Visiting Mission also made a brief tour of the naval base and thereafter continued its tour of the villages. At 8 a.m. on the day of the referendum, 4 August 1979, the Mission witnessed the opening of a voting station in the Tamunning precinct, then went on to visit other voting stations at Sinajana, Yona, Dededo, Yigo, Piti, Agat, Umatac and Merizo, where a by-election was also being held for the post of village commissioner. During its tour of the voting stations, the Mission observed the voting and spoke with the electoral staff of the stations. In some areas, the village commissioners were present to welcome the members of the Mission, who were provided with all information regarding the voting procedures, the number of people registered in the precinct, the number of voters, etc.

172. On 6 August, the Visiting Mission met with the President of the University of Guam and the Provost of the Community College, the Deputy Director of the Department of Education and the Chairman of the Board of Regents of the University of Guam. The Deputy Director of the Department of Education said that the

Department was responsible for 35 schools, 26,000 students and 2,500 employees. The schools were accredited by the Western Association of Schools and Colleges. In some instances, he said, the accreditation could hamper the development of a school because it called for a degree of standardization which did not take account of the special conditions existing on Guam.

173. The President of the University of Guam informed the Mission that there were 2,500 students on the University campus and that the University operated some regional institutions in the Trust Territory of the Pacific Islands (Yap, Palau, etc.). The University of Guam had five departments: science; education; agriculture and life sciences; business; and public administration. It had an academic staff of 172 and had been in existence for 27 years. About 90 per cent of the University's funds came from the territorial Government. In addition, the University benefited from endowment funds, grants from the Federal Government, gifts and donations.

174. The Deputy Director of Education told the Mission that there were 637 teachers in the elementary schools and some 400 in the secondary schools. The Catholic schools had between 4,000 and 6,000 students. There were about 17 private schools. He said that 52 cents of every tax dollar on Guam went to education. The Mission was also told that the Guam Community College had its own high school.

175. On 6 August, the Visiting Mission met with the Directors of Administration, the Bureau of Budget and Commerce. It was told during that meeting that the budget covered about 10 major areas of expenditure. In 1979, of a total budget of \$US 125 million, \$US 5 million had been allocated for economic development, \$US 15 million for public safety and security, \$US 19 million for public health and \$US 57 million for education. About \$US 20 million had been financed by the Federal Government.

176. The Director of Administration, discussing conditions in the civil service, said that government employees were encouraged to register at the University of Guam for evening classes. They had a union and could take their problems to the Civil Service Commission. The Director explained that the Guam Federation of Teachers was the main union, which also represented bus drivers and port authority workers.

177. During their meeting with the Mission, the three senior civil servants replied to questions relating to housing, economic development, the availability and use of federal funds, etc. They also provided members of the Mission with valuable information on the development policies of the Government of Guam.

178. The Mission also visited the intensive care unit at the new Guam Memorial Hospital on the same day. The officer in charge of guiding the Mission around the facilities said that the old facility, which specialized in chronic cases, had 60 beds. The new facility had 128 beds, and a total medical staff of 60, including 7 resident doctors. The nursing personnel numbered about 200. The hospital had been built by the Catholic Church and was bought in May 1979 by the Government of Guam with \$US 25 million in Federal Government funds and \$US 500,000 raised locally. The cost of operating the hospital was met through charges and subsidies from the local Government. Patients had to pay \$US 70 per day for a semi-private room and \$US 75 per day for a private room.

179. Later on the same day, the Visiting Mission attended a meeting of the Guam Legislature and subsequently visited GORCO. The Mission left the Territory on 7 August 1979.

IV. OBSERVATIONS AND CONCLUSIONS

180. During its visit, the Mission had the opportunity to meet and hold discussions with elected and non-elected leaders, including the Governor, the Lieutenant Governor, senators, village commissioners, the congressional delegate, government officials, the President of Guam University, the Provost of Guam Community College, church leaders, the Executive Director of the Election Commission and his colleagues, groups of citizens, the press and individuals throughout the island. The Mission visited various projects and was taken on an organized tour of certain areas of Andersen Air Force Base and the Naval Base.

A. The referendum

1. Organization of the referendum

181. The Mission was satisfied with the organization of the referendum. The absence of poll-watchers was noted but according to the Executive Director of the Election Commission, no requests for poll-watchers were made. The Mission had the opportunity to see first-hand that efforts were made to ensure informed participation. Citizens of the United States not registered to vote in the United States, were entitled to vote if registered in Guam and the Mission believed it was possible that the non-requirement of residence qualification might have allowed non-Guamanian resident United States citizens to participate in the referendum. Not much campaigning around the polling stations was noticed although the good weather on voting day could have allowed the gathering of proponents and opponents of the draft constitution within the allowable legal limits around the polling places. The ban on campaigning and campaign materials, signs or posters within the restricted area of the polling places was respected. The Mission received no complaints regarding the organization and administration of the referendum.

2. Political education

182. From discussions and interviews which the Mission had with a cross-section of the population it became abundantly clear that the various options open to the Guamanians as contained in resolution 1514 (XV) of 15 December 1960, and implicit in Article 73 of the United Nations Charter had not been explained to them by the administering Power.

183. The Mission was informed by officials of the Election Commission that an intensive political campaign had taken place following the translation of the draft constitution into Chamorro.

184. The Mission was present at one political education meeting on 31 July 1979, during which there was a heated debate for and against the constitution.

185. There was also an active political campaign on radio and television and in the

press. The Mission saw no evidence of improper intervention in the campaign by the administering Power and received no complaint of any. The Mission saw some billboards urging people to vote for or against the draft constitution.

3. Voting arrangements and the counting of ballots

186. On the day of the referendum, the Mission visited several precincts and was able to ascertain that the arrangements made by the Election Commission were satisfactory. The number of polling places and their distribution ensured a good coverage of the Territory and easy access by voters. The polling officers and inspectors were well aware of their duties and responsibilities. They had been provided with comprehensive instructions and training, as contained in a manual prepared by the Election Commission entitled "Precinct Official's Instructions" which was also made available to the members of the Mission. No complaints of pressure or of attempts to intimidate or bribe voters were brought to the attention of the Mission. The efficiency of the procedure for certification of voters in each precinct was noted. While visiting several polling stations, the Mission saw that the voters were able to cast their votes in secret and in accordance with the electoral law.

187. The counting of ballots, which took place at the various precincts, immediately followed the closing of the polls at 8 p.m. on 4 August 1979. The ballots were taken from the precincts under uniformed police escort in a security police van to the Election Commission's Headquarters where they were re-counted. The results were reported by radio and television as soon as the counting was completed. The small size of the island, as well as the efficient organization of the counting, ensured speedy returns and easy tabulation and a few hours after the closing of the polls the Election Commission was able to announce the official, but non-certified, results.

4. The poll and the results

188. A relatively small percentage (about 48 per cent) of the registered voters took part in the referendum. Of the 27,000 registered voters, 2,367 voted for, while 10,671 voted against, the proposed constitution.

B. Future political status of Guam

189. Throughout the visit the Mission heard overwhelming evidence that the current 1950 Organic Act was deemed most unsatisfactory by the Guamanians. They felt strongly that it did not give Guamanians enough say in those areas that were of vital interest to the economic development and future well-being of the Territory, such as immigration, air and sea transport, fishing and the possession of land by the Federal Government and the military. They contended that although in the 1976 referendum on the question of status they had voted for improved relations with the United States, the burden of federal restraints in those vital areas was crushing their hopes, options and aspirations. It was strongly felt that the best way to handle the current situation was to negotiate a status that took into full account the special geographical and other particular circumstances of Guam in order to enable the inhabitants to exercise their right to self-determination and thereby freely to determine their political status and freely to pursue their economic, social and cultural development.

190. The overwhelming rejection of the draft constitution by the voters was largely because it would have maintained the status quo, which many Guamanians believe does not allow meaningful participation of Guamanians in policy decisions affecting the island, such as those described above.

C. Economic and social conditions

191. One of the main economic features of the situation in Guam is its continuing reliance on the United States military bases for direct employment, purchases and civil contracts. This reliance has resulted from the destruction of the traditional agricultural infrastructure when one third of the Territory's prime agricultural land was acquired for military use. Additional land is controlled by the United States Government and is not available for agricultural or other development. Guam has not developed any export resource base. For example, in 1976 federal and local public employment, including the military, constituted 60 per cent of the Territory's total employment (42,300). Military-related payrolls provide approximately 40 per cent of the personal income generated on the island.

192. It has been roughly estimated that military expenditures alone are about equal to 62 per cent of the island's gross product. g/ In addition, the total United States military investment in Guam in 1975 was approximately \$US 2.6 billion. However, it was brought to the attention of the Mission that the high percentage of alien participation in the construction industry and the acceptance by the military of construction contracts from alien contractors have reduced the benefits received by the island from defence expenditures. For example, in March 1975, 90 per cent of the 5,388 persons employed in construction were aliens; only 507 were non-alien workers. Over 95 per cent of the dollar volume in military contracts tendered in 1975/76 was taken by alien contractors.

193. Although the majority of the Guamanians interviewed by the Visiting Mission recognized the employment opportunities and economic benefits resulting from the presence of the military bases in Guam, the islanders would like to reduce this heavy economic dependence on the military and the federal Government, by controlling and managing their resources, so as to strengthen and diversify the economy of their Territory.

194. However, they feel that formidable constraints are imposed by the federal Government under the current 1950 Organic Act, which operate against attempts to achieve these objectives. They suggest the following:

(a) That agricultural production and tourism should be expanded. In addition, land currently held by federal Government, which has been identified as in excess of military requirements in the foreseeable future, should be released and made available to the Guamanians.

(b) That Guamanians should be consulted in the negotiation of air landing rights. Under the present system, landing rights on Guam are regulated by CAB without either consultation with or consent of the representatives of Guam.

g/ Economic Adjustment Program for the Territory of Guam, prepared by the Office of Economic Adjustment, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), the Pentagon (Washington, D.C., July 1977), p. 3-5.

(c) That the Jones Act should be reviewed in a manner favourable to, and in the best interests of, the Guamanians. As it stands, this Act limits waterborne transportation to and from Guam and prohibits all non-United States carriers from using Guam except as a final destination. As a domestic port of the United States, Guam is subject to shipping laws that prohibit the use of foreign-flag vessels for the transportation of cargo between points in the United States. The regulations also prohibit United States flag carriers on this route from receiving subsidies in order to decrease transportation costs. Consequently, freight tariffs for Guam are significantly higher than those existing between the United States and other Pacific countries (e.g., the Philippines) and waterborne access is limited. As a result, it is estimated that the impact of this factor has been to increase the cost of Guamanian goods by 10 per cent.

195. Guam is currently served by three trans-Pacific airlines: Braniff International, Continental Airlines and Pan American World Airways (Pan Am). Air access to the islands of the western Pacific is controlled by three carriers, Air Nauru, Continental Airlines and Pacific Island Airways. Japan Air Lines (JAL) operates between Tokyo, Osaka and Guam.

196. This restriction in air accessibility, together with high fares and rates, severely limits the opportunity for Guam to develop as a regional headquarters or a cargo distribution centre for the western Pacific. A number of airlines want to establish services but have so far not been able to do so.

197. Because of its particular geographical location in the Pacific, Guam, like American Samoa, the United States Virgin Islands and Palau, should have a say in the shipping arrangements so as to secure the most advantageous conditions.

D. Marine resources

198. Currently, Guam has no say in the control, management and development of its potentially vast marine resources. It is urged that Guam should have rights to its natural resources and their control and development.

E. Manpower, employment and immigration

199. The use of alien labour is one of the most sensitive, emotional, difficult and explosive issues. The Guamanians complain that, because of the increasing use of alien workers in all sectors of the economy, their employment opportunities have been severely curtailed.

200. The Community College of Guam has excellent facilities for training Guamanians to acquire the skills needed to buttress their economic infrastructure and improve the administrative sector. Leaders in the private sector are responsive and co-operative, but the major obstacle is the federal constraint in the form of control of immigration into Guam without consultation with or consent of the Guamanian authorities. The Guamanians therefore feel that their interests are not properly safeguarded.

201. It is most strongly felt that, at this juncture, the Guamanians should have, if not control of, at least a significant say in this most vital aspect of their economic life.

F. Chamorro culture

202. The Chamorros, the indigenous people of Guam, provide the cultural legacy and the social identity of Guam, including the indigenous language of the island. According to 1975 figures, they constitute some 55.5 per cent of the population. Many Guamanians feel that their cultural identity is seriously threatened, and that the current move to revive, develop and promote the Chamorro language and culture should therefore be respected and encouraged.

V. RECOMMENDATIONS

203. The Mission recommends that the Special Committee request the administering Power to undertake the following:

(a) To explain fully to the Guamanians the various options open to them under their inalienable right to self-determination, including the right to independence, as provided for under the Charter of the United Nations and the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV) of 14 December 1960.

(b) In view of the landslide rejection of the draft constitution by the electorate voting in the referendum on 4 August 1979 (i.e., 82 per cent against) and the Missions's finding that the administering Power had not explained to the Guamanians the options open to them to enable the Guamanians freely to choose, decide and, if they so desire, negotiate their future political status, taking into account their aforementioned inherent rights, even though it is reported that in the 1976 referendum on the question of status, the Guamanians voted for improved relations with the United States.

(c) To fulfil, in accordance with Article 73 and all other relevant articles of the Charter, its obligations in the Territory, either by repealing the Jones Act in so far as it adversely affects the Guamanians and/or amending it, so as to take cognizance of, and provide for, the best interests of the Guamanians as evinced from their hopes, options and aspirations.

(d) Having regard to the fact that the Enabling Act under which the draft constitution was promulgated was positively restrictive of the options available to the Guamanians under the Charter, to ensure that any such future enabling act should give due regard to the inalienable rights of the Guamanians to self-determination and to refrain from curtailing or otherwise interfering with or preventing the free and unfettered exercise of those rights.

(e) To take the necessary action to enable the inhabitants of Guam to regain possession of land at present held by the federal authorities and by the military and not being used by them.

(f) To take all necessary steps to ensure that the economy of the Territory does not remain heavily dependent on the military bases, and to give every opportunity and encouragement to the Guamanians to strengthen and diversify the economic infrastructure of Guam.

Appendix I

Itinerary and activities of the Mission

<u>Date</u>	<u>Time</u>	<u>Remarks</u>
Friday, 27 July	0900	Departed from New York for Washington, D.C.
	1100	Met with Mr. Antonio B. Won Pat, Delegate to the United States Congress from Guam
	1230	Attended luncheon given by Mr. Charles W. Maynes, Assistant Secretary of State for International Organizations
	1430	Met with officials of the United States Department of the Interior and the Office of Territorial Affairs
	1715	Departed from Washington, D.C. for Honolulu
	2305	Arrived at Honolulu
Sunday, 29 July	0045	Departed from Honolulu for Guam
Monday, 30 July	0415	Arrived in Guam
Tuesday, 31 July	0930	Chairman of the Mission gave a press interview
	1130	Met with the Governor, the Lieutenant Governor and members of their staff
	1400	Met with members of the Fifteenth Guam Legislature
	1500	Met with the PARA-PADA Coalition (Peoples Alliance for Responsive Alternatives - Peoples Alliance for Dignified Alternatives)
	1600	Met with Education Committee of the Constitutional Convention
	1900	Attended a seminar for voters conducted by the Education Committee of the Constitutional Convention at Merizo
Wednesday, 1 August	0900	Met with Mr. Joe Mesa, Executive Director, Guam Election Commission
	1030	Met with the Village Commissioners' Council
	1200	Attended luncheon with Guam Chamber of Commerce
	1500	Met with Father Martinez, Father Brigido Arroyo and the Reverend Jordan Peck at the Diocese of Agaña
	1730	Met with members of the public

<u>Date</u>	<u>Time</u>	<u>Remarks</u>
Thursday, 2 August	0930	Met with members of the public and of the Constitutional Convention followed by visits to villages and Andersen Air Force Base
	1830	Attended reception given by Senator Antonio M. Palomo, Chairman, Committee on Territorial-Federal Affairs
Friday, 3 August	1000	Television interview given by Mission
	1130	Meeting with the Administrator of Guam Economic Development Authority (GEDA) followed by tour of GEDA projects. Visited the Naval Base
Saturday, 4 August		Referendum day. Visited polling stations to observe vote
Monday, 6 August	0900	Met with Mrs. Bennet Terre, Acting Director of the Department of Education, Dr. Rosa Carter, President of the University of Guam and Dr. John Salas, Provost of the Guam Community College, followed by a meeting with the Director of Administration, the Director of the Bureau of Budget and Management Resources and the Director of Commerce
	1200	Attended luncheon given by the Governor and Mrs. Calvo
	1400	Toured Guam Memorial Hospital Visited oil refinery
	1830	Mission gave reception
Tuesday, 7 August		Departed from Guam for Manila

Appendix II

The Organic Act of Guam and related federal laws affecting the governmental structure of Guam

The Organic Act of Guam

GENERAL PROVISIONS

§1 Short Title. This Act may be cited as the "Organic Act of Guam".

Legislative History. "This Act" is the Act of August 1, 1950, 64 Stat. 384, codified as 48 U.S.C. §1421-§1425. Because of common usage, and reference in more recent amendatory laws to the original sections of the Organic Act, this publication of the Organic Act will refer to Sections of the original Act, as amended, where such is possible. The U.S.C. citations will be included under "Legislative History".

§2 Name and Territory encompassed. The territory ceded to the United States in accordance with the provisions of the Treaty of Peace between the United States and Spain, signed at Paris, December 10, 1898, and proclaimed April 11, 1899, and known as the island of Guam in the Marianas Islands, shall continue to be known as Guam.

Legislative History: §2 of Act of Aug. 1, 1950; 48 U.S.C. §1421.

§3 Unincorporated Territory - Government. Guam is hereby declared to be an unincorporated territory of the United States and the capital and seat of government thereof shall be located at the city of Agana, Guam. The government of Guam shall have the powers set forth in this Act, shall have power to sue by such name, and, with the consent of the legislature evidenced by enacted law, may be sued upon any contract entered into with respect to, or any tort committed incident to, the exercise by the government of Guam of any of its lawful powers.¹ The government of Guam shall consist of three branches, executive, legislative and judicial, and its relations with the Federal Government in all matters not the program responsibility of another Federal department or agency, shall be under the general administrative supervision of the Secretary of Interior.²

Legislative History: §3 of Act of Aug. 1, 1950, 48 U.S.C. §1421a; ¹added by Act of Sept. 21, 1959; ²adopted by amendment of Sept. 11, 1968, P.L. 90-497, §12(a), 82 Stat. 847.

Court Decisions:

Since Guam is an unincorporated territory, its government has only those powers conferred upon it by Congress. Rodriguez v Gaylord, [1977 DC Hawaii] 429 F. Supp. 797.

§4 Citizenship of Persons living in and born in Guam.
(Repealed.)

Legislative History: Repealed by Act of June 27, 1952, c. 477, Title IV, §403(a)(42), 66 Stat. 280. This Section, with changes, was re-enacted as part of the Immigration and Nationality Act of 1952, 8 U.S.C. §1407. Formerly 48 U.S.C. §14211.

§5 Bill of Rights.

(a) No law shall be enacted in Guam respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the

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press, or the right of the people peaceably to assemble and to petition the government for a redress of their grievances.

(b) No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

(c) The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant for arrest or search shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

(d) No person shall be subject for the same offense to be twice put in jeopardy of punishment; nor shall he be compelled in any criminal case to be a witness against himself.

(e) No person shall be deprived of life, liberty, or property without due process of law.

(f) Private property shall not be taken for public use without just compensation.

(g) In all criminal prosecutions the accused shall have the right to a speedy and public trial; to be informed of the nature and cause of the accusation and to have a copy thereof; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.

(h) Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

(i) Neither slavery nor involuntary servitude, except as punishment for a crime whereof the party shall have been duly convicted, shall exist in Guam.

(j) No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall be enacted.

(k) No person shall be imprisoned for debt.

(l) The privilege of the writ of habeas corpus shall not be suspended, unless, when in cases of rebellion or invasion or imminent danger thereof, the public safety shall require it.

(m) No qualification with respect to property, income, political opinion, or any other matter apart from citizenship, civil capacity, and residence shall be imposed upon any voter.

(n) No discrimination shall be made in Guam against any person on account of race, language, or religion, nor shall the equal protection of the laws be denied.

(o) No person shall be convicted of treason against the United States unless on the testimony of two witnesses to the same overt act, or on confession in open court.

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(p) No public money or property shall ever be appropriated, supplied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or association, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary as such.

(q) The employment of children under the age of fourteen years in any occupation injurious to health or morals or hazardous to life or limb is hereby prohibited.

(r) There shall be compulsory education for all children, between the ages of six and sixteen years.

(s) No religious test shall ever be required as a qualification to any office or public trust under the government of Guam.

(t) No person who advocates, or who aids or belongs to any party, organization, or association which advocates the overthrow by force or violence of the government of Guam or of the United States shall be qualified to hold any public office or trust or profit under the government of Guam.

(u) The following provisions of and amendments to the Constitution of the United States are hereby extended to Guam to the extent that they have not been previously extended to that Territory and shall have the same force and effect there as in the United States or in any State of the United States: article I, section 9, clauses 2 and 3; article IV, section 1 and section 2, clause 1; the first to ninth amendments inclusive; the thirteenth amendment; the second sentence of section 1 of the fourteenth amendment; and the fifteenth and nineteenth amendments.

All laws enacted by Congress with respect to Guam and all laws enacted by the territorial legislature of Guam which are inconsistent with the provisions of this subsection are repealed to the extent of such inconsistency.

Legislative History: §5 of Act of Aug. 1, 1950 (Organic Act, as amended), codified as 48 U.S.C. §1421b. Subsection (u) added by Public Law 90-497, §10. 82 Stat. 847 [Elective Governor Act].

Court Decisions:

Local law prohibiting voter who has signed partisan candidate's petition from signing a petition for independent candidate for the same office is not unconstitutional or contrary to this Section. Webster v. Mesa, [1977, CA 9 Guam] 521 F.2d 442.

EXECUTIVE BRANCH

§6 Governor. The executive power of Guam shall be vested in an executive officer whose official title shall be the "Governor of Guam". The Governor of Guam, together with the Lieutenant Governor, shall be elected by a majority of the votes cast by the people who are qualified to vote for the members of the Legislature of Guam. The Governor and Lieutenant Governor shall be chosen jointly, by the casting by each voter of a single vote applicable to both offices. If no candidate receives a majority of the votes cast in any election, on the fourteenth day thereafter a runoff election shall be held between the candidates for Governor and Lieutenant Governor receiving the highest and second highest number of votes cast. The first election for Governor and Lieutenant Governor shall be held on November 3, 1970. Thereafter, beginning with the year 1974, the Governor and Lieutenant Governor shall be elected

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every four years at the general election. The Governor and Lieutenant Governor shall hold office for a term of four years and until their successors are elected and qualified.

No person who has been elected Governor for two full successive terms shall again be eligible to hold that office until one full term has intervened.

The term of the elected Governor and Lieutenant Governor shall commence on the first Monday in January following the date of election.

No person shall be eligible for election to the office of Governor or Lieutenant Governor unless he is an eligible voter and has been for five consecutive years immediately preceding the election a citizen of the United States and a bona fide resident of Guam and will be, at the time of taking office, at least thirty years of age. The Governor shall maintain his official residence in Guam during his incumbency.

The Governor shall have general supervision and control of all the departments, bureaus, agencies, and other instrumentalities of the executive branch of the government of Guam. He may grant pardons and reprieves and remit fines and forfeitures for offenses against local laws. He may veto any legislation as provided in this Act [Organic Act, as amended]. He shall appoint, and may remove, all officers and employees of the executive branch of the government of Guam, except as otherwise provided in this or any other Act of Congress, or under the laws of Guam, and shall commission all officers he may be authorized to appoint. He shall be responsible for the faithful execution of the laws of Guam and the laws of the United States applicable in Guam. Whenever it becomes necessary, in case of disaster, invasion, insurrection, or rebellion, or imminent danger thereof, or to prevent or suppress lawless violence, he may summon the posse comitatus or call out the militia or request the assistance of the senior military or naval commander of the Armed Forces of the United States in Guam, which may be given at the discretion of such commander if not disruptive of, or inconsistent with, his federal responsibilities. He may, in case of rebellion or invasion, or imminent danger thereof, when the public safety requires it, proclaim the island, insofar as it is under the jurisdiction of the government of Guam, to be under martial law. The members of the Legislature shall meet forthwith on their own initiative and may, by two-thirds vote, revoke such proclamation.

The Governor shall make to the Secretary of the Interior an annual report of the transactions of the government of Guam for transmission to the Congress and such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall have the power to issue executive orders and regulations not in conflict with any applicable law. He may recommend bills to the Legislature and give expression to his views on any matter before that body.

There is hereby established the office of Lieutenant Governor of Guam. The Lieutenant Governor shall have such executive powers and perform such duties as may be assigned to him by the Governor or prescribed by this Act [Organic Act, as amended] or under the laws of Guam.

Legislative History: Act of Aug. 1, 1950, c. 512, §6, codified as 48 U.S.C. §1422; amended by Public Law 90-497, §1, 82 Stat. 842 (Elective Governor Act).

Court Decisions:

This Section did not authorize the Governor of Guam to issue an executive order establishing curfew regulations during the aftermath of Typhoon Pamela. Gayle v Government of Guam, [1976 D.C. Guam] 414 F. Supp. 636.

The Governor of Guam, pursuant to his authority to enforce federal laws applicable to Guam, has the residual authority in the absence of the appropriate federal enforcement office on Guam to deport an alien who has overstayed his permit. Ex parte Rogers, [1952 DC Guam] 104 F. Supp. 393.

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§7 Removal of Governor by referendum election. Any Governor of Guam may be removed from office by a referendum election in which at least two-thirds of the number of persons voting for Governor in the last preceding general election at which a Governor was elected vote in favor of a recall and in which those so voting constitute a majority of all those participating in the referendum election. The referendum election shall be initiated by the Legislature of Guam following (a) a two-thirds vote of the members of the Legislature in favor of a referendum, or (b) a petition for such a referendum to the Legislature by registered voters equal the number to at least 50 per centum of the whole number of votes cast for Governor at the last general election at which a Governor was elected preceding the filing of the petition.

Legislative History: §7 of the Act of Aug. 1, 1950 (Organic Act), codified as 48 U.S.C. §1422a; amended by Public Law 90-497, §2, 82 Stat. 844 (Elective Governor Act).

§8 Vacancy in office of Governor or Lieutenant Governor; Temporary Disability, or Temporary Absence of Governor.

(a) In case of the temporary disability or temporary absence of the Governor, the Lieutenant Governor shall have the powers of the Governor.

(b) In case of a permanent vacancy in the office of Governor, arising by reason of the death, resignation, removal by recall, or permanent disability of a Governor-elect, or for any other reason, the Lieutenant Governor, or Lieutenant Governor-elect shall become the Governor, to hold office for the unexpired term and until he or his successor shall have been duly elected and qualified at the next regular election for Governor.

(c) In case of the temporary disability or temporary absence of the Lieutenant Governor, or during any period when the Lieutenant Governor is acting as Governor, the Speaker of the Guam Legislature shall act as Lieutenant Governor.

(d) In case of a permanent vacancy in the office of Lieutenant Governor, arising by reason of the death, resignation, or permanent disability of the Lieutenant Governor, or because the Lieutenant Governor or Lieutenant Governor-elect has succeeded to the office of Governor, the Governor shall appoint a new Lieutenant Governor, with the advice and consent of the legislature, to hold office for the unexpired term and until he or his successor shall have been duly elected and qualified at the next regular election for Lieutenant Governor.

(e) In case of the temporary disability or temporary absence of both the Governor and the Lieutenant Governor, the powers of the Governor shall be exercised, as Acting Governor, by such person as the laws of Guam may prescribe. In case of a permanent vacancy in the offices of both the Governor and Lieutenant Governor, the office of Governor shall be filled for the unexpired term in the manner prescribed by the laws of Guam.

(f) No additional compensation shall be paid to any person acting as Governor or Lieutenant Governor who does not also assume the office of Governor or Lieutenant Governor under the provisions of this Act [Organic Act, as amended].

Legislative History: §8 of Act of Aug. 1, 1950 (Organic Act), codified as 48 U.S.C. §1422b; amended by Public Law 87-419, §1, 76 Stat. 34 (Mar. 16, 1962); Public Law 90-497, §3, 82 Stat. 844 (Sept. 11, 1968) (Elective Governor Act). For implementation, see §§5000, et seq. of the Government Code of Guam.

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§9 Specific Powers and Duties of the Governor. (a) The Governor shall, except as otherwise provided in this Act or the laws of Guam, appoint, by and with the advice and consent of the legislature, all heads of executive agencies and instrumentalities. The legislature shall establish a merit system and, as far as practicable, appointments and promotions shall be made in accordance with such merit system.

(b) All officers shall have such powers and duties as may be conferred or imposed upon them by law or by executive regulation of the Governor not inconsistent with any law.

(c) The Governor shall, from time to time, examine the organization of the executive branch of the government of Guam, and shall determine and carry out such changes therein as are necessary to promote effective management and to execute faithfully the purposes of this Act and the laws of Guam.

(d) All persons holding office in Guam on the date of enactment of this Act may, except as otherwise provided in this Act, continue to hold their respective offices until their successors are appointed and qualified.

Legislative History: §9 of Act of Aug. 1, 1950 (Organic Act, as amended), codified as 48 U.S.C. §1422c; amended by Elective Governor Act, Public Law 90-947, §4, 82 Stat. 845.

GOVERNMENT (FEDERAL) COMPTROLLER

§9-A Government Comptroller; Appointment, Duties.

(a) The Secretary of the Interior shall appoint in the Department of the Interior a government comptroller for Guam who shall be under the general supervision of the Secretary of the Interior and shall not be a part of any executive department in the government of Guam. Effective October 1, 1977, the salary and expenses of the Comptroller's Office shall be paid from funds authorized to be appropriated to the Department of the Interior. Sixty days prior to the effective date of transfer or removal of the government comptroller, the Secretary shall communicate to the President of the Senate and the Speaker of the House of Representatives his intention to so transfer or remove the government comptroller and his reasons therefor.

(b) The government comptroller shall audit all accounts and review and recommend adjudication of claims pertaining to the revenue and receipts of the government of Guam and of funds derived from bond issues; and he shall audit, in accordance with law and administrative regulations, all expenditure of funds and property pertaining to the government of Guam including those pertaining to trust funds held by the government of Guam.

(c) It shall be the duty of the government comptroller to bring to the attention of the Secretary of the Interior and the Governor of Guam all failures to collect amounts due the government, and expenditure of funds or uses of property which are irregular or not pursuant to law. The audit activities of the government comptroller shall be directed so as to (1) improve the efficiency and economy of programs of the government of Guam, and (2) discharge the responsibility incumbent upon the Congress to insure that the substantial federal revenues which are covered into the treasury of the government of Guam are properly accounted for and audited.

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(d) The decisions of the government comptroller shall be final except that appeal therefrom may, with the concurrence of the Governor, be taken by the party aggrieved or the head of the department concerned, within one year from the date of the decision, to the Secretary of the Interior, which appeal shall be in writing and shall specifically set forth the particular action of the government comptroller to which exception is taken, with the reasons and the authorities relied upon for reversing such decision.

(e) If the Governor does not concur in the taking of an appeal to the Secretary, the party aggrieved may seek relief by suit in the District Court of Guam if the claim is otherwise within its jurisdiction. No later than thirty days following the date of the decision of the Secretary of the Interior, the party aggrieved or the Governor, on behalf of the head of the department concerned, may seek relief by suit in the District Court of Guam, if the claim is otherwise within its jurisdiction.

(f) The government comptroller is authorized to communicate directly with any person or with any department officer or person having official relation with his office. He may summon witnesses and administer oaths.

(g) As soon after the close of each fiscal year as the accounts of said fiscal year may be examined and adjusted, the government comptroller shall submit to the Governor of Guam and the Secretary of the Interior an annual report of the fiscal condition of the government showing the receipts and disbursements of the various departments and agencies of the government. The Secretary of the Interior shall submit such report along with his comments and recommendations to the President of the Senate and the Speaker of the House of Representatives.

(h) The government comptroller shall make such other reports as may be required by the Governor of Guam, the Comptroller General of the United States, or the Secretary of the Interior.

(i) The office and activities of the government comptroller of Guam shall be subject to review by the Comptroller of the United States, and reports thereon shall be made by him to the Governor, the Secretary of the Interior, the President of the Senate and the Speaker of the House of Representatives.

(j) All departments, agencies, and establishments shall furnish to the government comptroller such information regarding the powers, duties, activities, organization, financial transaction, and methods of business of their respective offices as he may from time to time require of them; and the government comptroller, or any of his assistants or employees, when duly authorized by him, shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department, agency, or establishment.

Legislative History: Added by Public Law 90-497, (Elective Governor Act), §5, 82 Stat. 845 Sept. 11, 1968; amended by Public Law 95-134, Title II, §203(a), Oct. 15, 1977, 91 Stat. 1161. Codified as 48 U.S.C. §1422d.

THE LEGISLATURE

§10 Legislature of Guam; Unicameral Nature; Powers.

(a) The legislative power and authority of Guam shall be vested in a legislature, consisting of a single house, to be designated the "Legislature of Guam", herein referred to as the legislature.

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(b) Size; Election At-large or by Districts; Limitations.

The legislature shall be composed of not to exceed twenty-one members, to be known as senators, elected at large, or elected from legislative districts, or elected in part at large and in part from legislative districts, as the laws of Guam may direct: Provided, That any districting and any apportionment pursuant to this authorization and provided for by the laws of Guam shall not deny to any person in Guam the equal protection of the laws; And provided further, That in any election to the legislature, every elector shall be permitted to vote for the whole number of at-large candidates to be elected, and every elector residing in a legislative district shall be permitted to vote for the whole number of candidates to be elected within that district.

(c) Reapportionment; Federal Census Base.

The laws of Guam shall not alter the manner in which members of the legislature are to be elected as provided in subsection (b) of this section more often than at ten-year intervals: Provided, That any districting and related apportionment pursuant to this section shall be based upon the then most recent Federal population census of Guam, and any such districting and apportionment shall be reexamined following each successive Federal population of Guam and shall be modified, if necessary, to be consistent with that census.

(d) Timing of Biennial Elections.

General elections to the legislature shall be held on the Tuesday next after the first Monday in November, biennially in even-numbered years. The legislature in all respects shall be organized and shall sit according to the laws of Guam.

Legislative History: §10 of Act of Aug. 1, 1950 (Organic Act); amended by Public Law 89-552, §1, Sept. 2, 1966, 80 Stat. 375. Codified as 48 U.S.C. §1423.

§11 Scope of Legislative Authority. The legislative power of Guam shall extend to all subjects of legislation of local application not inconsistent with the provisions of this Act and the laws of the United States applicable to Guam. Taxes and assessments on property, internal revenues, sales, license fees, and royalties for franchises, privileges, and concessions may be imposed for the purposes of the government of Guam as may be uniformly provided by the Legislature of Guam, and when necessary to anticipate taxes and revenues, bonds and other obligations may be issued by the government of Guam: Provided, however, That no public indebtedness of Guam shall be authorized or allowed in excess of 10 percentum of the aggregate tax valuation of the property in Guam. Bonds or other obligations of the government of Guam payable solely from revenues derived from any public improvement or undertaking shall not be considered public indebtedness of Guam within the meaning of this section. All bonds issued by the government of Guam or by its authority shall be exempt, as to principal and interest, from taxation by the Government of the United States or by the government of Guam, or by any State or Territory or any political subdivision thereof, or by the District of Columbia. The Secretary of the Interior (hereinafter in this section referred to as "Secretary") is authorized to guarantee for purchase by the Federal Financing Bank bonds or other obligations of the Guam Power Authority maturing on or before December 31, 1978, which shall be issued in order to refinance short-term notes due or existing on June 1, 1976 and other indebtedness not evidenced by bonds or notes in an aggregate amount of not more than \$36 million, and such bank, in addition to its other powers, is authorized to purchase, receive or otherwise acquire these same. The interest rate on obligations purchased by the Federal Financing Bank shall be not less than a rate determined by the Secre-

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tary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities, adjusted to the nearest one-eighth of 1 per centum, plus 1 per centum per annum. The Secretary, with the concurrence of the Secretary of the Treasury, may extend the guarantee provision of the previous sentence until December 31, 1980. Such guaranteed bonds or other obligations shall, while outstanding, include a provision for semiannual payment of interest only. If the Secretary determines that the Guam Power Authority will not meet its obligation to pay interest, the Secretary shall request the Secretary of the Treasury to deduct such payments from the sums collected and paid pursuant to Section 30 of this Act (48 U.S.C. §1421h) [Organic Act]. Should there be default at maturity on the bonds or other obligations so guaranteed, (1) the Secretary may withhold such sums as he determines may be necessary from sums collected by the Secretary of the Treasury pursuant to Section 30 of this Act (48 U.S.C. §1421h) [Organic Act] until losses incurred by the Secretary under the guarantee plus interest at the rate specified in this section have been reimbursed to the Secretary and (2) notwithstanding any other provision of law, Acts making appropriations may provide for the withholding of any payments from the United States to the government of Guam which may be or may become due pursuant to any law and offset the amount of such withheld payments against any claim the United States may have against the government of Guam or the Guam Power Authority pursuant to this guarantee. For the purposes of this Act (48 U.S.C. §§1421 et seq.) [Organic Act], under Section 3466 of the Revised Statutes (31 U.S.C. §191) the term "person" includes the government of Guam and Guam Power Authority. The Secretary may place such stipulations as he deems appropriate on the bonds or other obligations he guarantees.

Legislative History: §11 of Act of Aug. 1, 1950 (Organic Act); amended by Public Law 94-395, §1, Sept. 3, 1976, 90 Stat. 1199. Codified as 48 U.S.C. §1423a.

Court Decisions:

Guam's rebate and abatement tax provisions [GEDA law] designed to encourage business and industry by providing various tax assistance favoring qualifying corporations did not violate provisions of this Section requiring that taxes be uniformly applicable. Ramsey v Chaco [1977, CA 9 Guam] 549 F.2d 1335.

Law of Guam imposing a gross tax upon persons engaged in the business of selling tangible personal property, including that sold in foreign commerce, was invalid as posing a burden on foreign commerce and was also discriminatory. Ambrose, Inc. v Matdcox [DC Guam] 203 F. Supp. 934.

Issuance of revenue bonds by Guam Telephone Authority with contingent backing by the government of Guam has contemplated in P.L. 13-110 would constitute "public indebtedness" within the meaning of this Section. Guam Telephone Authority v Rivera [1976 DC Guam] 416 F. Supp. 283.

§12 Selection and Qualification of Members; Officers; Rules; Quorum.

The legislature shall be the judge of the selection and qualification of its own members. It shall choose from its members its own officers, determines its rules and procedure, not inconsistent with this Act [Organic Act], and keep a journal. The quorum of the legislature shall consist of eleven of its members. No bill shall become a law unless it shall have been passed at a meeting, at which a quorum was present, by the affirmative vote of a majority of the members present and voting, which vote shall be by yeas and nays.

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Legislative History: §12 of Act of Aug. 1, 1950 (Organic Act); amended by Public Law 90-497, §6(b), Sept. 11, 1968, 82 Stat. 846. (Elective Governor Act). Codified as 48 U.S.C. §1423b

§13 Legislative Immunities. (a) The members of the legislature shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the legislature and in going to and returning from the same.

(b) No member of the legislature shall be held to answer before any tribunal other than the legislature itself for any speech or debate in the legislature.

Legislative History: §13 of Act of Aug. 1, 1950 (Organic Act). Codified as 48 U.S.C. 1423c.

§14 Oaths Required of Government Officials. Every member of the legislature and all officers of the government of Guam shall take the following oath or affirmation:

"I solemnly swear (or affirm) in the presence of Almighty God that I will well and faithfully support the Constitution of the United States, the laws of the United States applicable to Guam and the laws of Guam, and that I will conscientiously and impartially discharge my duties as a member of the Guam Legislature (or as an officer of the government of Guam)."

Legislative History: §14 of Act of Aug. 1, 1950 (Organic Act). Codified as 48 U.S.C. §1423d.

§15 Members of the Legislature Restricted in accepting Appointments.

No member of the Legislature shall, during the term for which he was elected or during the year following the expiration of such term, be appointed to any office which has been created, or the salary or emoluments of which have been increased during such term.

Legislative History: §15 of Act of Aug. 1, 1950 (Organic Act). Codified as 48 U.S.C. §1423e.

§16 Qualifications of Legislators. No person shall sit in the legislature who is not a citizen of the United States, who has not attained the age of twenty-five years and who has not been domiciled in Guam for at least five years immediately preceding the sitting of the legislature in which he seeks to qualify as a member, or who has been convicted of a felony or of a crime involving moral turpitude and has not received a pardon restoring his civil rights.

Legislative History: §16 of Act of Aug. 1, 1950 (Organic Act). Codified as 48 U.S.C. §1423f.

§17 Vacancies in Legislature. Vacancies occurring in the legislature shall be filled as the legislature shall provide, except that no person filling a vacancy shall hold office longer than for the remainder of the term for which his predecessor was elected.

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Legislative History: §17 of Act of Aug. 1, 1950 (Organic Act). Codified as 48 U.S.C. §1423g.

§18 Legislative Sessions. Regular sessions of the legislature shall be held annually, commencing on the second Monday in January (unless the legislature shall by law fix a different date), and shall continue for such term as the legislature may provide. The Governor may call special sessions of the legislature at any time when, in his opinion, the public interest may require it. No legislation shall be considered at any special session other than that specified in the call therefor or in any special message by the Governor to the legislature while in such session. All sessions of the legislature shall be open to the public.

Legislative History: §18 of Act of Aug. 1, 1950 (Organic Act); amended by Public Law 90-497, §6(a), Sept. 11, 1968, 82 Stat. 846 (Elective Governor Act). Codified as 48 U.S.C. §1423h.

§19 Approval of Bills. Every bill passed by the legislature shall, before it becomes law, be entered upon the journal and presented to the Governor. If he approves it, he shall sign it, but if not he shall, except as hereinafter provided, return it, with his objections, to the legislature within ten days (Sundays excepted) after it shall have been presented to him. If he does not return it within such period, it shall be a law in like manner as if he had signed it, unless the legislature by adjournment prevents its return, in which case it shall be a law if signed by the Governor within thirty days after it shall have been presented to him; otherwise it shall not be a law. When a bill is returned by the Governor to the legislature with his objections, the legislature shall enter his objections at large on its journal and, upon motion of a member of the legislature, proceed to reconsider the bill. If, after such reconsideration, two-thirds of all the members of the legislature pass the bill, it shall be a law. If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more of such items, or any part or parts, portion or portions thereof, while approving the other items, parts, or portions of the bill. In such a case he shall append to the bill at the time of signing it, a statement of the items, or parts or portions thereof, to which he objects, and the items, or parts or portions thereof, so objected to shall not take effect. All laws enacted by the legislature shall be reported by the Governor to the head of the department of agency designated by the President under Section 3 of this Act [Organic Act; 48 U.S.C. 1421a]. The Congress of the United States reserves the power and authority to annul the same.

Legislative History: §19 of Act of Aug. 1, 1950 (Organic Act); amended by P.L. 90-947, §8(b), Sept. 11, 1968, 82 Stat. 847 (Elective Governor Act); and Public Law 93-608, §1(14), Jan. 2, 1975, 88 Stat. 1969. Codified as 48 U.S.C. §1423i.

Court Decisions:

Under this Section, the Governor could item veto specific appropriations but could not item veto words, phrases or conditions opposed upon those appropriations by the Legislature. The Legislature could override an item veto in the same manner as it can override a general veto. 13th Guam Legislature v Bordallo [1977, DC Guam] 430 F. Supp. 405. Affirmed, CA 9.

Governor properly exercised his pocket veto by failing to sign a bill delivered to him during a legislative recess where the Legislature was in recess for a period

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longer than 10 days after it has presented the bill to him, and where the Legislature provided no officer of its own to receive communications from the Governor during this recess. Bordallo v Camacho [1975, CA 9 Guam] 520 F.2d 763.

§20 Appropriations. (a) Appropriations, except as otherwise provided in this Act, and except such appropriations as shall be made from time to time by the Congress of the United States, shall be made by the legislature.

(b) If at the termination of any fiscal year the legislature shall have failed to pass appropriation bills providing for payments of the necessary current expenses of the government and meeting its legal obligations for the ensuing fiscal year, then the several sums appropriated in the last appropriation bills for the objects and purposes therein specified, so far as the same may be applicable, shall be deemed to be re-appropriated, item by item.

(c) All appropriations made prior to the date of enactment of this Act [Aug. 1, 1950] shall be available to the government of Guam.

Legislative History: §20 of Act of Aug. 1, 1950 (Organic Act). Codified as 48 U.S.C. §1423i.

§21 Right of Petition: The legislature or any person or group of persons in Guam shall have the unrestricted right of petition. It shall be the duty of all officers of the government to receive and without delay to act upon or forward, as the case may require, any such petition.

Legislative History: §21 of Act of Aug. 1, 1950 (Organic Act). Codified as 48 U.S.C. §1423k.

§21-A Purchases through GSA. The Territorial and local governments (of Guam) are authorized to make purchases through the the General Services Administration.

Legislative History: Contained in annual appropriations to the Department of the Interior and repeated therein annually.

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§22 Courts of Guam; Jurisdiction; Procedure.

(a) There is created a court of record to be designated the "District Court of Guam", and the judicial authority of Guam shall be vested in the District Court of Guam and in such court or courts as may have been or may hereafter be established by the laws of Guam. The District Court of Guam shall have the jurisdiction of a district court of the United States in all cases arising under the Constitution, treaties and laws of the United States, regardless of the sum or value of the matter in controversy, shall have original jurisdiction in all other causes in Guam, jurisdiction over which has not been transferred by the legislature to other court or courts established by it, and shall have such appellate jurisdiction as the legislature may determine. The jurisdiction of and procedure in the courts of Guam other than the District Court of Guam shall be prescribed by the laws of Guam.

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Appeals to the District Court of Guam shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to section 24(a) [48 U.S.C. 1424(b)] of this Act [Organic Act]. The concurrence of two judges shall be necessary to any decision by the District Court of Guam on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take and prosecute it in accordance with the applicable law or rules of procedure.

(b) The rules heretofore or hereafter promulgated and made effective by the Supreme Court of the United States pursuant to section 3072 of Title 28, in civil cases; section 2073 of Title 28, in admiralty cases; sections 3771 and 3772 of Title 18, in criminal cases; and section 53 of Title 11, in bankruptcy cases; shall apply to the District Court of Guam and to appeals therefrom; except that no provisions of any such rules which authorize or require trial by jury or the prosecution of offenses by indictment by a grand jury instead of by information shall be applicable to the District Court of Guam unless and until made so applicable by laws enacted by the Legislature of Guam, and except further that the terms "attorney for the government" and "United States attorney", as used in the Federal Rules of Criminal Procedure, shall, when applicable to cases arising under the laws of Guam, mean the Attorney General of Guam or such other person or persons as may be authorized by the laws of Guam to act therein.

Legislative History: §22 of Act of Aug. 1, 1950 (Organic Act); amended by Act of Aug. 27, 1954, c. 1017, §1, 68 Stat. 882; Act of June 4, 1958, Public Law 84-444, §§1,2, 72 Stat. 178. Codified as 48 U.S.C. §1424.

Court Decisions:

Guam Legislature had no authority to divest the District Court of Guam of its appellate jurisdiction, which jurisdiction was created under this Section. The Legislature has no power to, in effect, divest the Ninth Circuit of its review of local cases through the District Court's Appellate Division. People v Olsen [1977, US] 97 S.Ct. 1774.

The District Court of Guam has jurisdiction, by reason of Government Code §19700, to redetermine deficiencies assessed under the income tax laws of the territory of Guam. Forbes v Maddox [CA 9] 339 F.2nd. 387, reversing 212 F. Supp. 662.

Removal by non-resident from the Guam Island Court to the District Court of Guam is a corollary to the existence of diversity jurisdiction in the Guam District Court. Jones & Guerrero, Company v Sealift Pacific [1977, CA 9 Guam] 554 F.2d 984.

The District Court of Guam does not possess diversity jurisdiction as Congress has not granted such jurisdiction to the District Court in this Section. This Sections grants federal question jurisdiction to the District Court, but does not grant diversity jurisdiction since the cause of action in diversity cases arises under the laws of the state wherein the action originated, rather than under the laws of the United States through the diversity statute of 28 USC §1332. Chase Manhattan Bank [National Association] v South Acres Development Company [1976 US] 98 S.Ct. 544.

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District Court of Guam does have jurisdiction over transitory causes of action arising outside of Guam. Pederson v United States [DC Guam] 191 F. Supp. 95.

Supreme Court of Guam could perform limited non-appellate function of hearing objection to authority of the special prosecutor appointed under the Independent Special Prosecutor Act of 1974 (Public Law 12-173). Sanchez v Supreme Court of Guam [1975 DC Guam] 416 F. Supp. 1.

§23 Appeals from District Court. Repealed by Act of Oct. 30, 1951, c. 655, §56(e), 65 Stat. 729. For present provisions on appeals from the District Court of Guam, see 28 U.S.C. §§41, 1252, 1292 and 1294. Formerly codified as 48 U.S.C. §1424a.

§24 District Court Judge; United States Attorney; Marshal; Applicability of laws.

(a) The President shall, by and with the advice and consent of the Senate, appoint a judge for the District Court of Guam who shall hold office for the term of eight years and until his successor is chosen and qualified unless sooner removed by the President for cause. The judge shall receive a salary payable by the United States which shall be at the rate prescribed for judges of the United States district courts.

The Chief Judge of the Ninth Judicial Circuit of the United States may assign a judge of the Island Court of Guam or a judge of the High Court of the Trust Territory of the Pacific Islands or a circuit or district judge of the ninth circuit, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit, to serve temporarily as a judge in the District Court of Guam whenever it is made to appear that such an assignment is necessary for the proper dispatch of the business of the court.

(b) The President shall appoint, by and with the advice and consent of the Senate, a United States attorney and United States marshal for Guam to whose offices the provisions of chapters 35 and 37 of Title 28, United States Code, respectively, shall apply.¹

(c) The provisions of chapters 43 and 49 of Title 28, United States Code, shall apply to the District Court of Guam.

Legislative History: ¹§24 of Act of Aug. 1, 1950 (Organic Act); amended by Act of June 4, 1958, Public Law 85-444, §3, 72 Stat. 179.

²See note to 48 U.S.C.S. §1424b regarding applicability of chapters 35 and 37 of Title 28, U.S.C..

Section codified as 48 U.S.C. §1424b.

§24-A Review of Land Claims. (a) Notwithstanding any law or court decisions to the contrary, the District Court of Guam is hereby granted authority and jurisdiction to review claims of persons, their heirs or legatees, from whom interests in land on Guam were acquired other than through judicial condemnation proceedings, in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam, by the United States between July 21, 1944 and August 23, 1963, and to award fair compensation in those cases where it is determined that less than fair

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market value was paid as a result of (1) duress, unfair influence or other unconscionable actions, or (2) unfair, unjust, and inequitable actions of the United States.

(b) Land acquisitions effected through judicial condemnation proceedings in which the issue of compensation was adjudicated in a contested trial in the District Court of Guam, shall remain res judicata and shall not be subject to review hereunder.

(c) Fair compensation for purposes of this Act [Act of Oct. 15, 1977, Public Law 95-134, 91 Stat. 1159] is defined as such additional amounts as are necessary to effect payment of fair market value at the time of acquisition, if it is determined that, as a result of duress, unfair influence, or other unconscionable actions, fair market value was not paid. Interest may not be allowed from the time of acquisition to the date of the award on such additional amounts as may be awarded pursuant to this section.

(d) The District Court of Guam may employ and utilize the services of such special masters or judges as are necessary to carry out the intent and purposes hereof.

(e) Awards made hereunder shall be judgments against the United States.

(f) Attorney's fees paid by claimants to counsel representing them may not exceed 5 per centum of any additional award. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both. A reasonable attorney's fee may be awarded in appropriate cases.

(g) All agencies and departments of the United States Government shall, upon request, deliver to the court any documents, records, and writings which are pertinent to any claim under review.

Legislative History: Added by Act of Oct. 15, 1977, Public Law 95-134, Title II, §204, 91 Stat. 1162. Codified as 48 U.S.C. 1424c.

Note: Various cases pursuant to this Act are under appeal to the Ninth Circuit Court of Appeals. The immediate controversy is the right of plaintiff's to have their land cases heard by trials to a jury. No final rulings under this Section have been promulgated by the Ninth Circuit Court of Appeals.

MISCELLANEOUS PROVISIONS

§25 Continuation of Laws in Force. (a) The laws of Guam in force on the date of enactment of this Act [Organic Act], except as amended by this Act, are hereby continued in force, subject to modification or repeal by the Congress of the United States or the Legislature of Guam, and all laws of Guam inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency.

(b) Study on Applicability of Federal Laws to Guam. Repealed.

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Legislative History: §25 of Act of Aug. 1, 1950 (Organic Act); amended by Act of Sept. 11, 1968, Public Law 90-497, §7, 82 Stat. 847 (Elective Governor Act). Codified as 48 U.S.C. §1421c.

§26 Salaries and Travel Allowances Payable by Government of Guam.

The salaries and travel allowances of the Governor, Lieutenant Governor, the heads of the executive departments, other officers and employees of the government of Guam, and the members of the Legislature, shall be paid by the government of Guam at rates prescribed by the laws of Guam.

Legislative History: §26 of Act of Aug. 1, 1950 (Organic Act); amended Aug. 1, 1956, c.852, §21, 70 Stat. 911; July 30, 1965, Public Law 89-100, 79 Stat. 424; Sept. 11, 1968, Public Law 90-497, §9(a), (b), 82 Stat. 847 (Elective Governor Act). Codified as 48 U.S.C. §1421d.

§27 Customs Treatment by U.S. of Guam Products. All articles coming into the United States from Guam shall be subject to or exempt from duty as provided for in section 1301a of Title 19 [U.S.C.].

Legislative History: §27 of Act of Aug. 1, 1950 (Organic Act); amended Sept. 1, 1954, c. 1213, Title IV, §402(b), 68 Stat. 1140. Codified as 48 U.S.C. §1421e.

§28 Title to Property Transferred. (a) The title to all property, real and personal, owned by the United States and employed by the naval government of Guam in the administration of civil affairs of the inhabitants of Guam, including automotive and other equipment, tools and machinery, water and sewerage facilities, bus lines and other utilities, hospitals, schools, and other buildings, shall be transferred to the government of Guam within ninety days after the date of enactment of this Act [Organic Act].

(b) All other property, real and personal, owned by the United States in Guam, not reserved by the President of the United States within ninety days after the date of enactment of this Act [Organic Act], is hereby placed under the control of the government of Guam, to be administered for the benefit of the people of Guam, and the legislature shall have the authority, subject to such limitations as may be imposed upon its acts by this Act [Organic Act] or subsequent acts of the Congress, to legislate with respect to such property, real and personal, in such manner as it may deem desirable.

(c) All property owned by the United States in Guam, the title to which is not transferred to the government of Guam by subsection (a) hereof, or which is not placed under the control of the government of Guam by subsection (b) hereof, is transferred to the administrative supervision of the Secretary of the Interior, except as the President may from time to time otherwise prescribe: Provided, That the Secretary of the Interior shall be authorized to lease or to sell, on such terms as he may deem in the public interest, any property, real and personal, of the United States under his administrative supervision in Guam not needed for public purposes.

Legislative History: §28 of Act of Aug. 1, 1950 (Organic Act); amended by Elective Governor Act, Public Law 90-497 by designating the administrative control of subsection (c) to be in the Secretary of the Interior. Codified as 48 U.S.C. §1421f.

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§29 Education and Hospital Services Provided For.

(a) Health Services. Subject to the laws of Guam, the Governor shall establish, maintain, and operate public health services in Guam, including hospitals, dispensaries, and quarantine stations, at such places in Guam as may be necessary, and he shall promulgate quarantine and sanitary regulations for the protection of Guam against the importation and spread of disease.

(b) Education. The Governor shall provide an adequate public educational system of Guam, and to that end shall establish, maintain, and operate public schools at such places in Guam as may be necessary.

Legislative History: §29 of Act of Aug. 1, 1950 (Organic Act). Codified as 48 U.S.C. 1421g.

Court Decisions:

The supervision of all departments of the Government of Guam, including the Department of Education, rest with the Governor of Guam. Therefore, a 1972 collective bargaining agreement exceeds the authority given to the signatories where that agreement requires the prior approval of the union before any changes, or complete termination thereof, may be made after the termination date of the agreement. People v. Guam Federation of Teachers Local 1581, Conrad Stinson, President, et al. [DC Guam App. Div. 1978] Consolidated appeals 122A, 125A.

§30 Duties and Taxes Covered into Treasury of Guam.

All customs duties and Federal income taxes derived from Guam, the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in Guam and transported to the United States, its Territories, or possessions, or consumed in Guam, and the proceeds of any other taxes which may be levied by the Congress on the inhabitants of Guam, and all quarantine, passport, immigration, and naturalization fees collected in Guam shall be covered into the treasury of Guam and held in account for the government of Guam in accordance with the annual budgets except that nothing in this Act [Organic Act] shall be construed to apply to any tax imposed by chapter 2 or 21 of the Internal Revenue Code of 1954.¹ Beginning as soon as the government of Guam enacts legislation establishing a fiscal year commencing on October 1 and ending on September 30, the Secretary of the Treasury, prior to the commencement of any fiscal year, shall remit to the government of Guam the amount of duties, taxes and fees which the Governor of Guam, with the concurrence of the Government Comptroller of Guam, that the Governor of Guam has estimated will be collected in or derived from Guam under this section during the next fiscal year, except for those sums covered directly upon collection into the Treasury of Guam. The Secretary of the Treasury shall deduct from or add to the amount so remitted the difference between the amount of duties, taxes and fees actually collected during the prior fiscal year and the amount of such duties, taxes and fees as estimated and remitted at the beginning of that prior fiscal year, including any deductions which may be required as a result of the operation of Public Law 94-395 (90 Stat. 1199) or Public Law 68-170, as amended (82 Stat. 863).²

Legislative History: §30 of Act of Aug. 1, 1950 (Organic Act); ¹ amended Sept. 13, 1960, Public Law 86-778. Title I, §103(u), 74 Stat. 941 by adding clause beginning "except that nothing. . .".

²Matter following note ² added by Public Law 95-348, Act of Aug. 18, 1978. Codified as 48 U.S.C. §1421h.

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§31 Income Tax Laws in Force. (a) The income tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in Guam: Provided, that notwithstanding any other provision of law, the Legislature of Guam may levy a separate tax on all taxpayers in an amount not to exceed 10 per centum of their annual income tax obligation to the government of Guam.¹

(b) The income tax laws in force in Guam pursuant to subsection (a) of this section shall be deemed to impose a separate Territorial Income Tax, payable to the government of Guam, which tax is designated the "Guam Territorial Income Tax".

(c) The administration and enforcement of the Guam Territorial Income Tax shall be performed by or under the supervision of the Governor. Any function needful to the administration and enforcement of the income tax laws in force in Guam pursuant to subsection (a) of this Section shall be performed by any officer or employee of the government of Guam duly authorized by the Governor (either directly, or indirectly by one or more redelegations of authority) to perform such function.

(d)(1) The income tax laws in force in Guam pursuant to subsection (a) of this section include but are not limited to the following provisions of the Internal Revenue Code of 1954, where not manifestly inapplicable or incompatible with the intent of this section: Subtitle A (not including chapter 2 and section 931); chapters 24 and 25 of subtitle C, with reference to the collection of income tax at source on wages; and all provisions of subtitle F which apply to the income tax, including provisions as to crimes, other offenses and forfeitures contained in chapter 75. For the period after 1950 and prior to the effective date of the repeal of any provision of the Internal Revenue Code of 1939 which corresponds to one or more of those provisions of the Internal Revenue Code of 1954 which are included in the income tax laws in force in Guam pursuant to subsection (a) of this section, such income tax laws include but are not limited to such provisions of the Internal Revenue Code of 1939.

(2) The Governor or his delegate shall have the same administrative and enforcement powers and remedies with regard to the Guam Territorial Income Tax as the secretary of the Treasury, and other United States officials of the executive branch, have with respect to the United States income tax. Needful rules and regulations not inconsistent with the regulations prescribed under section 7645(e) of the Internal Revenue Code of 1954 [26 U.S.C. §7645(e)] for enforcement of the Guam Territorial Income Tax shall be prescribed by the Governor. The Governor or his delegate shall have the authority to issue, from time to time, in whole or in part, the text of the income tax laws in force in Guam pursuant to subsection (a) of this section.²

(e) In applying as the Guam Territorial Income Tax the income tax laws in force in Guam pursuant to subsection (a) of this section, except where it is manifestly otherwise required, the applicable provisions of the of 1954 and 1939, shall be read so as to substitute "Guam" for "United States", "Governor or his delegate" for "Secretary or his delegate", "Governor or his delegate" for "Commissioner of Internal Revenue" and "Collector of Internal Revenue", "District Court of Guam" for "district court" and with other changes in nomenclature and other language, including the omission of inapplicable language, where necessary to effect the intent of this section.

(f) Any act or failure to act with respect to the Guam Territorial Income Tax which constitutes a criminal offense under chapter 75 of subtitle F of the Internal Revenue Code of 1954, or the corresponding provisions of the Internal Revenue Code

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of 1939, as included in the income tax laws in force in Guam pursuant to subsection (a) of this section, shall be an offense against the Government of Guam and may be prosecuted in the name of the Government of Guam by the appropriate officers thereof.

(g) The Government of Guam shall have a lien with respect to the Guam Territorial Income Tax in the same manner and with the same effect, and subject to the same conditions, as the United States has a lien with respect to the United States Income Tax. Such lien in respect of the Guam Territorial Income Tax shall be enforceable in the name of and by the government of Guam. Where filing of a notice of lien is prescribed by the income tax laws in force in Guam pursuant to subsection (a) of this section, such notice shall be filed in the Office of the Clerk of the District Court of Guam.

(h)(1) Notwithstanding any provision of Section 22 of this Act [section 1424 of Title 48] or any other provisions of law to the contrary, the District Court of Guam shall have exclusive original jurisdiction over all judicial proceedings in Guam, both criminal and civil, regardless of the degree of the offense or of the amount involved, with respect to the Guam Territorial Income Tax.

(2) Suits for the recovery of any Guam Territorial Income Tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, under the income tax laws in force in Guam, pursuant to subsection (a) of this section, may, regardless of the amount of the claim, be maintained against the government of Guam subject to the same statutory requirements as are applicable to suits for the recovery of such amounts maintained against the United States in the United States district courts with respect to the United States Income Tax. When any judgment against the government of Guam under this paragraph has become final, the Governor shall order payment of such judgments out of any unencumbered funds in the treasury of Guam.

(3) Execution shall not issue against the Governor or any officer or employee of the Government of Guam on a final judgment in any proceeding against him for any acts or for the recovery of money exacted by or paid to him and subsequently paid into the treasury of Guam, in performing his official duties under the income tax laws in force in Guam pursuant to subsection (a) of this section, if the court certifies that --

(A) probable cause existed; or

(B) such officer or employee acted under the directions of the Governor or his delegate.

When such certificate has been issued, the Governor shall order the payment of such judgment out of any unencumbered funds in the treasury of Guam.

(4) A civil action for the collection of the Guam Territorial Income Tax, together with fines, penalties and forfeitures, or for the recovery of any erroneous refund of such tax, may be brought in the name of and by the government of Guam in the District Court of Guam or in any district court of the United States or in any court having the jurisdiction of a district court of the United States.

(5) The jurisdiction conferred upon the District Court of Guam by this subsection shall not be subject to transfer to any other court by the legislature, notwithstanding section 22(a) of this Act [Organic Act] [48 U.S.C. §1424(a)].

Legislative History: §31, containing only subsection (a), of Act of Aug. 1, 1950 (Organic Act); amended Aug. 20, 1958, Public Law 85-688, §1, 72 Stat. 681 - added subsections (b) - (h); [1] Oct. 15, 1977, Public Law 95-134, Title II, §203(c), 91 Stat. 1162. 2Oct. 31, 1972, Public Law 92-606, §1(d), 86 Stat. 1497; Codified as 48 U.S.C. §1424i.

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Note: There are numerous decisions, both in the District Court and the Ninth Circuit Court of Appeals dealing with various interpretations of the Internal Revenue Code as applied to Guam. These are not annotated here as they do not deal with this Section as an Organic Act section. Rather, they interpret the Internal Revenue Code of 1954. However, see notes to 48 USC 1421i in USCA and USCS for further information.

Congress is considering an amendment to this section which would place collection of income taxes on Guam with the IRS. If this passes, it will appear in "Current Laws".

Court Decisions:

Section 31 of the Organic Act was enacted by the Congress primarily to relieve the US Treasury of making direct appropriation to the government of Guam. Although Congress delegated collection and enforcement function of the income tax to the government of Guam, the government of Guam is powerless to vary the terms of the Internal Revenue Code as applied to Guam, except as permitted by Congress. Bank of America N.T.&S.A. v Chaco [1976 CA 9 Guam] 539 F.2d 1226.

Guam's rebate and abatement tax provisions (GEDA law) did not violate provisions of this Section since Congress failed to annul the tax rebate provisions within the one-year period and, thus, impliedly approved the same. [That portion of 48 USC §1423i which implies Congressional approval of Guam laws if not annulled by Congress within one year was repealed by the Elective Governor Act.] Ramsey v Chaco [1977 CA 9 Guam] 549 F.2d 1335.

The District Court of Guam has jurisdiction, by reason of Government Code §19700, to redetermine deficiencies assessed under the income tax laws of the territory of Guam. Forbes v Maddox [CA 9] 339 F.2d. 387, reversing 212 F. Supp. 662.

§32 Appropriations Authorized. There are hereby authorized to be appropriated annually by the Congress of the United States such sums as may be necessary and appropriate to carry out the provisions of this Act [Organic Act].

Legislative History: §32 of Act of Aug. 1, 1950 (Organic Act). Codified as 48 U.S.C. §1421j.

§33 Naval and Military Reservations. Nothing contained herein shall be construed as limiting the authority of the President to designate parts of Guam as naval or military reservations, nor to restrict his authority to treat Guam as a closed port with respect to the vessels and aircraft of foreign nations.

Legislative History. §33 of Act of Aug. 1, 1950 (Organic Act). Codified as 48 U.S.C. 1421k.

§33-A Marihuana prohibited. (Repealed.)

Added by Act of Aug. 1, 1956, c. 852, §15, 70 Stat. 910. Repealed by Act of Oct. 27, 1970, Public Law 91-513, Title III, Part. B, §1101(a)(8); 84 Stat. 1292 - Federal Controlled Substances Act. Formerly codified as 48 U.S.C. §1421m.

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§34 Effective Date. Upon the 21st day of July 1950, the anniversary of the liberation of the island of Guam by the Armed Forces of the United States in World War II, the authority and powers conferred by this Act [Organic Act] shall come into force. However, the President is authorized, for a period not to exceed one year from the date of enactment of this Act, to continue the administration of Guam in all or in some respects, as provided by law, executive order, or local regulation in force on the date of enactment of this Act. The President may, in his discretion, place in operation all or some of the provisions of this Act if practicable before the expiration of the period of one year.

Legislative History: §34 of Act of Aug. 1, 1950 (Organic Act). Not codified.

§35 Certain Expenses for Guam's Delegate to Congress.

Notwithstanding any other provision of law, the clerk hire allowance and the transportation expenses subject to reimbursement under Federal law of the Delegate from Guam to the United States House of Representatives shall each be the same as allowed for Members of the United States House of Representatives.

Legislative History: §35 of the Organic Act, as added by Act of May 27, 1975, Public Law 94-26, §1, 89 Stat. 94. Codified as 48 U.S.C. §1421k-1. See also 48 U.S.C. §1715.

§[36] Acknowledgment of Deeds. Deeds and other instruments affecting land situated in the District of Columbia or any Territory of the United States may be acknowledged in the island of Guam and Samoa or in the Canal Zone before any notary public or judge appointed therein by proper authority, or by any officer therein who has ex officio the powers of a notary public: Provided, That the certificate by such notary in Guam, Samoa, or the Canal Zone, as the case may be, shall be accompanied by the certificate by the Governor or acting governor of such place to the effect that the notary taking said acknowledgment was in fact the officer he purported to be; and any deeds or other instruments affecting lands so situated, so acknowledged since the 1st day of January, 1905 and accompanied by such certificate shall have the same effect as such deeds or other instruments hereafter [June 28, 1906] so acknowledged and certified.

Legislative History: Codified as 48 U.S.C. §1421f-1. Act of June 28, 1908, ch. 3585, 34 Stat. 552. Not in Organic Act.

§[37] Copyrights. The laws of the United States relating to copyrights, and to the enforcement of rights arising thereunder, shall have the same force and effect in Guam as in the continental United States.

Legislative History: Codified as 48 U.S.C. 1421n. Act of Aug. 1, 1956, c. 852, §24, 70 Stat. 911. However, for present applicability, see new Copyright Act, 17 U.S.C. §101 (Public Law 94-553, 90 Stat. 2541). Not in Organic Act.

§[38] Federal Assistance for Fire Control, Watershed Protection and Reforestation.

The Secretary of Agriculture is authorized to provide financial and technical assistance to Guam for improving fire control, watershed protection and reforestation,

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consistent with existing laws, administered by the Secretary of Agriculture, which are applicable to the continental United States. The program authorized by this section shall be developed in cooperation with the territorial government of Guam and shall be covered by a memorandum or understanding agreed to by the territorial government and the Department. The Secretary may also utilize the agencies, facilities, and employees of the Department, and may cooperate with other public agencies and with private organizations and individuals in Guam and elsewhere.

Legislative History: Act of Sept. 19, 1974, Public Law 93-421, §1, 88 Stat. 1154. Codified as 48 U.S.C. §1421c. Not in Organic Act.

§[39] Appropriations Authorized. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of section 1421c [§37] of this title [48 U.S.C.]. Sums appropriated in pursuance of sections 1421c [§37] and 1421p [this section] of this title [48 U.S.C.] may be allocated to such agencies of the Department as are concerned with the administration of the program in Guam.

Legislative History: Added by Public Law 93-421, §2, Sept. 19, 1974, 88 Stat. 1154. Codified as 48 U.S.C. §1421p. Not in Organic Act.

§[40] Applicability of Federal Laws. The laws of the United States which are made applicable to the Northern Mariana Islands by the provisions of section 502(a)(1) of H.J. Res. 549, as approved by the House of Representatives and the Senate, except for Section 228 of Title II and Title XVI of the Social Security Act as it applies to the several states and the Micronesian Claims Act as it applies to the Trust Territory of the Pacific Islands, shall be made applicable to Guam on the same terms and conditions as such laws are applied to the Northern Mariana Islands.

Legislative History: Act of April 1, 1976, Public Law 94-255, §2, 90 Stat. 300. Codified as 48 U.S.C. §1421q. Not in Organic Act.

Note: The Sections above enclosed in [--] are Sections added after the original Organic Act was passed, not assigned a Section number in the Organic Act as amended, but which are assigned subsections within Organic Act sections as codified in 48 U.S.C. As these Sections cannot be added conveniently elsewhere, please note that the official citation to these Sections should be the codified reference.

LAWS, NOT THE ORGANIC ACT, APPLICABLE TO THE GOVERNMENTAL STRUCTURE OF GUAM AND FOUND IN 48 UNITED STATES CODE.

Note: All Section references hereafter are to the Sections in 48 U.S.C..

PUBLIC HOUSING AND URBAN RENEWAL

Public Housing and Urban Renewal

- §1425 Mortgage Insurance on Housing Projects or Property
- §1425a Local Authorities Permitted
- §1425b Issuance of Notes, Bonds and Obligations
- §1425c Authorization of Loans, etc.
- §1425d Ratification of Prior Act
- §1425e Additional Powers
- §1426 Purchase of Mortgage Loans by FNMA (Repealed)

§1425 Mortgage Insurance on Housing Projects or Property.

If the Federal Housing Commissioner finds that, because of higher costs prevailing in Guam, it is not feasible to construct dwellings on property located in Guam without sacrifice of sound standards of construction, design, or livability, within the limitations as to maximum or maxima mortgage amounts provided in chapter 13 of Title 12, the Commissioner may, by regulations or otherwise, prescribe, with respect to dollar amount, a higher maximum or maxima for the principal obligation of mortgages insured under chapter 13 of Title 12 covering property located in Guam, in such amounts as he shall find necessary to compensate for such higher costs but not to exceed, in any event, the maximum or maxima otherwise applicable by more than one-third thereof. No mortgage with respect to a project or property in Guam shall be accepted for insurance under chapter 13 of Title 12 unless the Commissioner finds that the project or property is an acceptable risk, giving consideration to the acute housing shortage in Guam: Provided, That any such mortgage may be insured or accepted for insurance without regard to any requirement in any other section of chapter 13 of Title 12 that the Commissioner find the project or property to be economically sound or an acceptable risk. Notwithstanding any of the provisions of chapter 13 of Title 12 or any other law, the government of Guam or any other agency or instrumentality thereof shall be eligible as mortgagor or mortgagee, as the case may be, for any of the purposes of mortgage insurance under the provisions of chapter 13 of Title 12. Upon application of the mortgagee (1) where the mortgagor is regulated or restricted pursuant to the last sentence of this Section or (2) where the government of Guam or any agency or instrumentality thereof is the mortgagor or mortgagee, for the insurance of a mortgage under any provisions of chapter 13 of Title 12, the Commissioner is authorized to insure the mortgage (including advances thereon where otherwise authorized), and to make commitments for the insuring of any such mortgage prior to the date of their execution or disbursement thereon, under such provisions (and this section) without any regard to any requirement that the mortgagor shall be the owner and occupant of the property or shall have paid a prescribed amount on account of such property. Without limiting the authority of the Commissioner under any other provision of law, the Commissioner is authorized, with respect to any mortgagor in such case (except where the Alaska Housing Authority is the mortgagor or mortgagee), to require the mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate or return, and methods of operation to such an extent and in such manner as the Commissioner determines advisable to provide reasonable rentals and sales prices and a reasonable return on the investment.

Legislative History: Act of June 27, 1934, c.847, §214, as added April 23, 1949, c.89, §2(a), 63 Stat. 57, and amended July 14, 1952, c. 723, §10(a)(3), 66 Stat. 603; June 30, 1953, c. 170, §25(c), 67 Stat. 128. Guam added in 1952. See 12 U.S.C. §1715d

Public Housing and Urban Renewal

§1425a Local Authorities Permitted. The Legislature of Guam may by law grant to a public corporate authority, existing or to be created by or under such law, powers to undertake urban renewal and housing activities in Guam. Such legislature may by law provide for the appointment, terms of office, or removal or the members of such authority and for the powers of such authority, including authority to accept whatever benefits the Federal Government may make available, and to do all things, to exercise any and all powers, and to assume and fulfill any and all obligations, duties, responsibilities, and requirements, including but not limited to those relating to planning or zoning, necessary or desirable for receiving such Federal assistance, except that such authority shall not be given any power of taxation, nor any power to pledge the faith and credit of the territory of Guam for any loan whatever.

Legislative History: Added by Public Law 88-171, §1, Nov. 4, 1963, 77 Stat. 304.

§1425b Issuance of Notes, Bonds and Obligations. The Legislature of Guam may by law authorize such authority, any provision of the Organic Act of Guam, or any other Act of Congress to the contrary notwithstanding, to borrow money and to issue notes, bonds, and other obligations of such character and maturity, with such security, and in such manner as the legislature may provide. Such notes, bonds, and other obligations shall not be a debt of the United States, or of Guam other than such authority, nor constitute a debt, indebtedness, or the borrowing of money within the meaning of any limitation or restriction on the issuance of money within the meaning or any limitation or restriction on the issuance of notes, bonds, or other obligations contained in any laws of the United States applicable to Guam, or to any agency thereof.

Legislative History: Public Law 88-171, §2, Nov. 4, 1963, 77 Stat. 304.

§1425c Authorization of Loans, etc. The Legislature of Guam may by law assist such authority by furnishing, or authorizing the furnishing of, cash donations, loans, conveyances or real and personal property, facilities, and services, and otherwise, and may by law take other action in aid of urban renewal or housing or related activities.

Legislative History: Public Law 88-171, §2, Nov. 4, 1963, 77 Stat. 304.

§1425d Ratification of Prior Act. Each and every part of Public Law 6-135, approved December 18, 1962, heretofore enacted by the Legislature of Guam dealing with any part of the subject matter of sections 1425a-1425e of this Title and not inconsistent therewith is ratified and confirmed.

Legislative History: Public Law 88-171, §4, Nov. 4, 1963, 77 Stat. 304.

§1425e Additional Powers. Powers granted herein shall be in addition to, and not in derogation of, any powers granted by other law to, or for the benefit or assistance of any public corporate authority.

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Legislative History: Public Law 88-171, §5, Nov. 4, 1963, 77 Stat. 304.

§1426 Purchase of Mortgages Loans by FNMA.

Repealed by Act of Aug. 2, 1954, c.649, Title II, §205, 68 Stat. 622.

GUAM DEVELOPMENT FUND

§1428 Authorization of Appropriations
§1428a Submission of Plan; etc.
§1428b Prerequisites for Loans and Loan Guarantees; Maximum Participation
in Available Funds; Reserves for Loan Guarantees
§1428c Accounting Procedures
§1428d Annual Report by Governor
§1428e Audit of Guam Administering Agency

§1428 Authorization of Appropriations. (a) For the purpose of promoting economic development in the territory of Guam, there is hereby authorized to be appropriated to the Secretary of the Interior to be paid to the government of Guam for the purposes of sections 1428-1428e of this Title the sum of \$5,000,000.

(b) In addition to the appropriations authorized in subsection (a) of this Section, \$1,000,000 is authorized to be appropriated to the Secretary of the Interior to be paid to the government of Guam annually for five fiscal years commencing in fiscal year 1978 to carry out purposes of sections 1428 to 1428e of this title.

Legislative History: Enacted by Public Law 90-601, §2, 82 Stat. 1172, Oct. 17, 1968; amended by Public Law 95-134, Title II, §202, 91 Stat. 1161, Oct. 15, 1977.

§1428a Submission of Plan; Contents; Term; Interest; Premium Charge on Loan.

Prior to receiving any funds pursuant to sections 1428 to 1428e of this title the government of Guam shall submit to the Secretary of the Interior a plan for the use of such funds which meets the requirements of this section and is approved by the Secretary. The plan shall designate an agency or agencies of such government as the agency or agencies for the administration of the plan and shall set forth the policies and procedures to be followed in furthering the economic development of Guam through a program which shall include and make provision for loans and loan guarantees to promote the development of private enterprises and private industry in Guam through a revolving fund for such purposes: Provided, That the term of any loan made pursuant to the plan shall not exceed twenty-five years; that such loans shall bear interest (exclusive of premium charges for insurance, and service charges, if any) at such rate per annum as is determined to be reasonable and as approved by the Secretary, but in no event less than a rate equal to the average yield of outstanding marketable obligations of the United States as of the last day of the month preceding the date of the loan, adjusted to the nearest one-eighth of 1 per centum, which rate shall be determined by the Secretary of the Treasury upon the request of

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the authorized agency or agencies of the government of Guam; and that premium charges for the insurance and guarantee of loans shall be commensurate, in the judgment of the agency or agencies administering the fund, with expenses and risks covered.

Legislative History: Enacted by Public Law 90-601, §3, 82 Stat. 1172, Oct. 17, 1968.

§1428b Prerequisites for Loans and Loan Guarantees; Maximum Participation in Available Funds; Reserves for Loan Guarantees.

No loan or loan guarantee shall be made under Sections 1428 to 1428e of this Title to any applicant who does not satisfy the agency or agencies administering the plan that financing is otherwise unavailable on reasonable terms and conditions. The maximum participation in the funds made available under Section 1428 of this Title shall be limited (a) so that not more than 25 per centum of the funds actually appropriated by the Congress may be devoted to any single project (b) to 90 per centum of loan guarantee, and (c) with respect to all loans, to that degree of participation prudent under the circumstances of individual loans but directly related to the minimum essential participation necessary to accomplish the purposes of Sections 1428 through 1428e of this Title: Provided, That with respect to loan guarantees, the reserves maintained by the agency or agencies for the guarantees shall not be less than 25 per centum of the guarantee.

Legislative History: Enacted by Public Law 90-601, §4, 82 Stat. 1172, Oct. 17, 1968.

§1428c Accounting Procedures. The plan provided for in Section 1428a of this Title shall set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement, repayment, and accounting for such funds.

Legislative History: Enacted by Public Law 90-601, §5, 82 Stat. 1172, Oct. 22, 1968.

§1428d Annual Report by Governor. The Governor of Guam shall make an annual report to the Secretary of the Interior on the administration of Sections 1428 to 1428e of this Title who shall then forward copies of such reports to the Speaker of the House of Representatives and the President of the Senate.

Legislative History: Enacted by Public Law 90-601, §6, 82 Stat. 1173, Oct. 22, 1968.

§1428e Audit of Guam Administering Agency or Agencies.

The Comptroller General of the United States, or any of his duly authorized representatives, shall have access, for the purposes of audit and examination, to the books, documents, papers, and records of the agency, or agencies, of the government of Guam administering the plan that are pertinent to the funds received under Sections 1428 to 1428e of this Title.

Legislative History: Enacted by Public Law 90-601, §7, 82 Stat. 1173, Oct. 22, 1968.

Delegate to Congress

DELEGATE TO CONGRESS FROM GUAM

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- §1711 Delegate to the House of Representatives
 - §1712 Election of Delegates
 - §1713 Qualifications for Delegate
 - §1714 Territorial Legislature to Determine Election Procedure
 - §1715 Operation of Office; House Privileges; etc.
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§1711 Delegate to the House of Representatives.

The territory of Guam and the territory of the Virgin Islands each shall be represented in the United States Congress by a non-voting Delegate to the House of Representatives, elected as hereinafter provided.

Legislative History: Enacted by Public Law 92-271, §1, 86 Stat. 118, April 10, 1972.

§1712 Election of Delegates.

(a) The Delegate shall be elected by the people qualified to vote for the members of the legislature of the territory he is to represent at the general election of 1972, and thereafter at such general election every second year thereafter. The Delegate shall be elected at large, by separate ballot and by a majority of the votes cast for the office of Delegate. If no candidate receives such majority, on the fourteenth day following such election a runoff election shall be held between the candidates receiving the highest and the second highest number of votes cast for the Office of Delegate. In case of a permanent vacancy in the office of Delegate, by reason of death, resignation, or permanent disability, the office of Delegate shall remain vacant until a successor shall have been elected and qualified.

(b) The term of the Delegate shall commence on the third day of January following the date of the election.

Legislative History: Enacted by Public Law 92-271, §2, 86 Stat. 119, April 10, 1972.

§1713 Qualifications for Delegate.

To be eligible for the Office of Delegate a candidate must:

- (a) be at least twenty-five years of age on the date of the election;
- (b) have been a citizen of the United States for at least seven years prior to the date of the election;
- (c) be an inhabitant of the territory from which he is elected; and
- (d) not be, on the date of the election, a candidate for any other office.

Legislative History: Enacted by Public Law 92-271, §3, 86 Stat. 119, April 10, 1972.

Submerged Lands - Concurrent Jurisdiction

§1714 Territorial Legislature to Determine Election Procedure.

The legislature of each territory may determine the order of names on the ballot for election of Delegate, the method by which a special election to fill a vacancy in the Office of Delegate shall be conducted, the method by which ties between candidates for the Office of Delegate shall be resolved, and all other matters of local application pertaining to the election and the Office of Delegate not otherwise expressly provided for herein.

Legislative History: Enacted by Public Law 92-271, §4, 86 Stat. 119, April 10, 1972.

§1715 Operation of Office; House Privileges; Voting in Committee; Clerk Hire and Transportation Allowance; Salary, etc.

The Delegate from Guam and the Delegate from the Virgin Islands shall have such privileges in the House of Representatives as may be afforded him under the Rules of the House of Representatives. Until the Rules of the House of Representatives are amended to provide otherwise, the Delegate from each territory shall receive the same compensation, allowances, and benefits as a Member of the House of Representatives, and shall be entitled to whatever privileges and immunities are, or hereinafter may be, granted to the Resident Commissioner for Puerto Rico: Provided, That the right to vote in committee shall be as provided by the Rules of the House of Representatives: Provided further, That the clerk hire allowance for each Delegate shall be a single per annum gross rate that is 60 per centum of the clerk hire allowance of a Member: Provided further, That the transportation expenses of each delegate that are subject to reimbursement under section 43b of Title 2, shall not exceed the cost of four round trips each year.

Legislative History: Enacted by Public Law 92-271, §5, 86 Stat. 119, April 10, 1972; amended by Section 35 of the Organic Act (see below). §35 of the Organic Act, as added by Act of May 27, 1975, Public Law 94-26, §1, 89 Stat. 94, amends this section. Codified as 48 U.S.C. §1421k-1.

SUBMERGED LANDS AND CONCURRENT JURISDICTION

- §1704 Concurrent Jurisdiction; Exceptions
- §1705 Tidelands, etc., Conveyed to Guam
- §1706 Reserved Rights - Establishment of Defensive Sea Areas
- §1707 Payment of Rents to Local Governments
- §1708 Discrimination Prohibited

§1704 Concurrent Jurisdiction; exceptions.

(a) Except as otherwise provided in this section, the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, shall have concurrent jurisdiction with the United States over parties found, acts performed, and offenses committed on property owned, reserved, or controlled by the United States in Guam, the Virgin Islands, and American Samoa. A judgment of conviction or acquittal on the

Submerged Lands - Concurrent Jurisdiction

merits under the laws of Guam, the Virgin Islands, or American Samoa shall be a bar to any prosecution under the criminal laws of the United States for the same act or acts, and a judgment of conviction or acquittal on the merits under the laws of the United States shall be a bar to any prosecution under the laws of Guam, the Virgin Islands, or American Samoa for the same act or acts.

(b) Notwithstanding the provisions of subsection (a) of this section, the President may from time to time exclude from the concurrent jurisdiction of the government of Guam persons found, acts performed, and offenses committed on the property of the United States which is under the control of the Secretary of Defense to such extent and in such circumstances as he finds required in the interest of the national defense.

Legislative History: Enacted by Public Law 88-183, §4, 77 Stat. 339, Nov. 20, 1963.

§1705 Tidelands, etc. Conveyed to Guam.

(a) Subject to valid existing rights, all right, title, and interest of the United States in lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coastlines of the territories of Guam, the Virgin Islands, and American Samoa, as heretofore or hereafter modified by accretion, erosion, and reliction, and in artificially made, filled in, or reclaimed lands which were formerly permanently or periodically covered by tidal waters, are hereby conveyed to the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, to be administered in trust for the benefit of the people thereof.

(b) There are excepted from the transfer made by subsection (a) hereof:

(i) all deposits of oil, gas, and other minerals, but the term "minerals" shall not include coral, sand and gravel;

(ii) all submerged lands adjacent to property owned by the United States above the line of mean high tide;

(iii) all submerged lands adjacent to property above the line of mean high tide acquired by the United States by eminent domain proceedings, purchase, exchange, or gift, after October 5, 1974, as required for completion of the Department of the Navy Land Acquisition Project relative to the construction of the Ammunition Pier authorized by the Military Construction Authorization Act, 1971 (64 Stat. 1204), as amended by section 201 of the Military Construction Act, 1973 (86 Stat. 1135);

(iv) all submerged lands filled in, built up, or otherwise reclaimed by the United States before October 5, 1974, for its own use;

(v) all tracts or parcels of submerged land containing on any part thereof any structures or improvements constructed by the United States;

(vi) all submerged lands that have heretofore been determined by the President or by the Congress to be of such scientific, scenic, or historic character as to warrant preservation and administration under the provisions of sections 1 and 2 to 4 of Title 16;

(vii) all submerged lands designated by the President within one hundred and twenty days after October 5, 1974;

(viii) all submerged lands that are within the administrative responsibility of any agency or department of the United States other than the Department of the Interior;

Submerged Lands - Concurrent Jurisdiction

- (ix) all submerged lands lawfully acquired by persons other than the United States through purchase, gift, exchange, or otherwise;
- (x) [land in the Virgin Islands]; and
- (xi) [land in Buck Island Reef National Monument].

Upon request of the Governor of Guam, the Virgin Islands, or American Samoa, the Secretary of the Interior may, with or without reimbursement, and subject to the procedure specified in subsection (c) of this section convey all right, title, and interest of the United States in any of the lands described in clauses (ii), (iii), (iv), (v), (vi), (vii), or (viii) of this subsection to the government of Guam, the Virgin Islands, or American Samoa, as the case may be, with the concurrence of the agency having custody thereof.

(c) No conveyance shall be made by the Secretary pursuant to this section until the expiration of sixty calendar days (excluding days on which the House of Representatives or the Senate is not in session because of adjournment of more than three days to a day certain) from the date on which the Secretary of the Interior submits to the Committees of Interior and Insular Affairs of the House of Representatives and the Senate an explanatory statement indicating the tract proposed to be conveyed and the need therefor, unless prior to the expiration of such sixty calendar days both Committees inform the Secretary that they wish to take no action with respect to the proposed conveyance.

Legislative History: Enacted by Public Law 93-435, §1, 88 Stat. 1210, Oct. 5, 1974. See Proclamation No. 4347, Feb. 1, 1975, 40 F.R. 5129 relative to lands reserved under this Section for the United States by the President.

§1706 Reserved Rights - Establishment of Defensive Sea Areas.

(a) Nothing in Sections 1705 to 1708 of this Title shall affect the right of the President to establish naval defensive sea areas and naval defensive airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands when deemed necessary for national defense.

(b) Nothing in Sections 1705 to 1708 of this Title shall effect the use, development, improvement, or control by or under the constitutional authority of the United States of the lands transferred by section 1705 of this Title, and the navigable waters overlying such lands, for the purpose of navigation or flood control or the production of power, or be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control or the production of power.

(c) The United States retains all of its navigational servitude and rights in and powers of regulation and control of the lands conveyed by Section 1705 of this Title, and the navigable waters overlying such lands, for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically conveyed to the government of Guam, the Virgin Islands, or American Samoa, as the case may be, by Section 1705 of this Title.

(d) Nothing in Sections 1705 to 1708 of this Title shall affect the status of lands beyond the three-mile limit described in Section 1705 of this Title.

Grants-in-Aid -- Local and Special Laws

Legislative History: Enacted by Public Law 93-435, §2, 88 Stat. 1211, Oct. 5, 1974.

§1707 Payment of Rents, to Local Governments.

On and after October 5, 1974, all rents, royalties, or fees from leases, permits, or use rights, issued prior to October 5, 1974, by the United States with respect to the land conveyed by Sections 1705 to 1708 of this Title, or by Section 1545(b) of this Title, and rights or action for damages for trespass occupancies of such lands shall accrue and belong to the appropriate local government under whose jurisdiction the land is located.

Legislative History: Enacted by Public Law 93-435, §4, 88 Stat. 1212, Oct. 5, 1974.

§1708 Discrimination Prohibited.

No person shall be denied access to, or any of the benefits accruing from, the lands conveyed by Sections 1705 to 1708 of this Title, or by Section 1545(b) of this Title, on the basis of race, religion, creed, color, sex, national origin, or ancestry: Provided, however, That this section shall not be construed in derogation of any of the provisions of the April 17, 1900 cession of Tutuila and Aunuu of the July 16, 1904 cession of the Manu's Islands, as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4).

Legislative History: Enacted by Public Law 93-435, §6, 88 Stat. 1212, Oct. 5, 1974.

FEDERAL POLICY RELATIVE TO GRANTS-IN-AID
LOCAL AND SPECIAL LAWS PROHIBITED

- §1469a Congressional Declaration of Policy Respecting "Insular Areas" -
Consolidation of Grants and Waiver of Matching Funds
§1471 Local or Special Laws Prohibited

§1469a Congressional Declaration of Policy Respecting "Insular Areas".

In order to minimize the burden caused by existing application and reporting procedures for certain grant-in-aid programs available to the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, and the Government of the Northern Mariana Islands (hereinafter referred to as "Insular Areas") it is hereby declared to be the policy of Congress notwithstanding any provision of law to the contrary, that:

(a) Any department or agency of the Government of the United States which administers any Act of Congress which specifically provides for making grants to any Insular Area under which payments received may be used by such Insular Area only for certain specified purposes (other than direct payments to classes of individuals)

Grants-in-Aid. -- Local and Special Laws

may, acting through appropriate administrative authorities of such department or agency, consolidate any or all grants made to such area for any fiscal year or years.

(b) Any consolidated grant for any Insular Area shall not be less than the sum of all grants which such area would otherwise be entitled to receive for such year.

(c) The funds received under a consolidated grant shall be expended in furtherance of the programs and purposes authorized for any of the grants which are being consolidated, which are authorized under any of the Acts administered by the department or agency making the grant, and which would be applicable to grants for such programs and purposes in the absence of the consolidation, but the Insular Areas shall determine the proportion of of the funds granted which shall be allocated to such programs and purposes.

(d) Each department or agency making grants-in-aid shall, by regulations published in the Federal Register, provide the method by which any Insular Area may submit (i) a single application for a consolidated grant for any fiscal year period, but not more than one such application for a consolidated grant shall be required by any department or agency unless notice of such requirement is transmitted to the appropriate committees of the United States Congress together with a complete explanation of the necessity for requiring such additional applications and (ii) a single report to such department or agency with respect to each such consolidated grant: Provided, That nothing in this paragraph shall preclude such department or agency from providing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities receiving benefits from any consolidated grant. The administering authority of any department or agency, in its discretion, may (i) waive any requirement for matching funds otherwise required by law to be provided by the Insular Area involved and (ii) waive the requirement that any Insular Area submit an application or report in writing with respect to any consolidated grant.

Legislative History: Enacted by Public Law 95-134, Title V, §501, 91 Stat. 1164, Oct. 15, 1977; subsection (a) amended by Public Law 95-348, §9, 92 Stat. 495, August 18, 1978.

§1471 Local or Special Laws Prohibited.

The legislatures of the Territories of the United States now or hereafter to be organized shall not pass local or special laws in any of the following enumerated areas, that is to say:

- Granting divorces.
- Changing the names of persons or places.
- Laying out, opening, altering and working roads or highways.
- Vacating roads, town plats, streets, alleys, and public grounds.
- Locating or changing county seats. Regulating county and township affairs.
- Regulating the practice in courts of justice.
- Regulating the jurisdiction and duties of justices of the peace, police magistrates, and constables.
- Providing for changes in venue in civil and criminal cases.
- Incorporating cities, towns or villages, or changing or amending the charter of any town, city, or village.
- For the punishment of any crimes or misdemeanors.
- For the assessment and collection of taxes for Territorial, county,

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township, or road purposes.
Summoning and impaneling grand or petit juries.
Providing for the management of common schools.
Regulating the rate of interest on money.
The opening and conducting of any election or designating the place of voting.
The sale or mortgage of real estate belonging to minors or others under disability.
The protection of game or fish.
Chartering or licensing ferries or toll bridges.
Remitting fines, penalties, or forfeitures.
Creating, increasing, or decreasing fees, percentage, or allowances of public officers during the term for which said officers are elected or appointed.
Changing the law of descent.
Granting to any corporation, association, or individual the right to lay down railroad tracks, or amending existing charters for such purposes.
Granting to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise whatever.

In all other cases where a general law can be made applicable, no special law shall be enacted in any of the Territories of the United States by the Territorial legislatures thereof.

Legislative History: Enacted by Act of July 30, 1886, c. 818, §1, 24 Stat. 170.
1 This prohibition, however, is probably not applicable as a specific provision modifying this prohibition is found within the Organic Act, section 15, 48 U.S.C. §1423e.

Court Decisions:

The prohibitions of this Section have no application where specific permission to the contrary is granted by the Organic Act of the Territory. Ponce v Roman Catholic Apostolic Church, 210 US 296, 28 S.Ct. 737.

§562 of this Title [Title 48], concerning Hawaii, supercedes this Section as to Hawaii. Emmolun v Oahu County, 19 Hawaii 171.

Status of the Virgin Islands as an unincorporated territory has no relevance to the prohibitions contained in this Section against special legislation in territories. The legislative history of this Section shows that Congress recognize that the evils of special legislation, which had been overcome in most of the states of the Union by constitutional prohibitions, had become rampant in the territories. It was to eliminate these evils in the territories that this Section was adopted. Smith v Government of the Virgin Islands [CA 3 Virgin Islands], 375 F.2nd. 714, affirming 240 F. Supp. 809 [1967].

Guam Constitution Authorization Act

**AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF
CONSTITUTIONS FOR THE VIRGIN ISLANDS AND GUAM.**

Public Law 94-584

94th Congress

90 Stat. 2899

Approved: October 21, 1976.

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That the Congress, recognizing the basic democratic principle of government by the consent of the governed, authorizes the peoples of the Virgin Islands and of Guam, respectively, to organize governments pursuant to constitutions of their own adoption as provided in this Act.

§2 (a) The Legislatures of the Virgin Islands and Guam, respectively, are authorized to call constitutional conventions to draft, within the existing territorial-Federal relationship, constitutions for the local self-government of the people of the Virgin Islands and Guam.

(b) Such constitutions shall --

(1) recognize, and be consistent with, the sovereignty of the United States over the Virgin Islands and Guam, respectively, and the supremacy of the provisions of the Constitution, treaties, and laws of the United States applicable to the Virgin Islands and Guam, respectively, including, but not limited to, those provisions of the Organic Act and Revised Organic Act of the Virgin Islands and the Organic Act of Guam which do not relate to local self-government.

(2) provide for a republican form of government, consisting of three branches: executive, legislative and judicial;

(3) contain a bill of rights;

(4) deal with the subject matter of those provisions of the Revised Organic Act of the Virgin Islands of 1954, as amended, and the Organic Act of Guam, as amended, respectively, which relate to local self-government;

(5) with reference to Guam, provide that the voting franchise may be vested only in residents of Guam who are citizens of the United States;

(6) provide for a system of local courts consistent with the provisions of the Revised Organic Act of the Virgin Islands, as amended; and

(7) provide for a system of local courts the provisions of which shall become effective no sooner than upon the enactment of legislation regulating the relationship between the local courts of Guam with the Federal judicial system.

§3 The members of the constitutional conventions shall be chosen as provided by the laws of the Virgin Islands and Guam, respectively (enacted after the date of enactment of this Act): Provided, however, That no person shall be eligible to be a member of the constitutional conventions, unless he is a citizen of the United States and qualified to vote in the Virgin Islands and Guam, respectively.

§4 The conventions shall submit to the Governor of the Virgin Islands a proposed constitution for the Virgin Islands and to the Governor of Guam a proposed constitution for Guam which shall comply with the requirements set forth in §2(b) above. Such constitutions shall be submitted to the President of the United States by the Governors of the Virgin Islands and Guam.

Guam Constitution Authorization Act

§5 Within sixty calendar days after the respective date on which he has received each constitution, the President shall transmit such constitution together with his comments to the Congress. The constitution, in each case, shall be deemed to have been approved by the Congress within sixty days after its submission by the President, unless prior to that date the Congress has approved the constitution, or modified or amended it, in whole or in part, by joint resolution. As so approved or modified, the constitutions shall be submitted to the qualified voters of the Virgin Islands and Guam, respectively, for acceptance or rejection through islandwide referendums to be conducted as provided under the laws of the Virgin Islands and Guam, respectively, (enacted after the date of enactment of this Act). Upon approval by not less than a majority of the voters (counting only the affirmative or negative votes) participating in such referendum, the constitutions shall become effective in accordance with their terms.

Note: For a complete record of the proceedings of the Constitutional Convention of Guam, and related documents, see Guam Constitutional Convention 1977, available at the Office of Administrative Director, Fifteenth Guam Legislature.

Appendix III
Guam Constitution

PREAMBLE

We, the people of Guam, affirming our belief in Almighty God who granted us inalienable rights to life, liberty, and the pursuit of happiness, and assuming the responsibilities of self-government within political union with the United States of America, in order to provide for the welfare of the people, offer opportunity for full development of the individual, ensure political, economic and social justice, maintain a representative democratic government, protect our natural resources, and preserve the identity of Guam, *I tano i Chamorro*, do ordain and establish this constitution.

ARTICLE I. PRINCIPLES OF GOVERNMENT

Section 1. Popular sovereignty. All power is vested in and derived from the people who are equally free and independent and who agree to institute government for their benefit, protection, and security. The enumeration in this constitution of rights shall not be construed to deny or limit other rights retained by the people.

Section 2. Republican form of government. The government shall be republican in form and shall consist of three branches, executive, legislative, and judicial.

ARTICLE II. BILL OF RIGHTS

Section 1. Freedom of religion, speech, press, assembly, and petition. No law shall be enacted establishing religion, prohibiting the free exercise of religion, or abridging freedom of speech or the press, or the right of the people to assemble peaceably and to petition for redress of grievances.

Section 2. Due process and equal protection. No person shall be deprived of life, liberty, or property without due process of law, or be treated unfairly in legislative or executive investigations, or be denied equal protection of the laws because of race, religion, sex, age, national origin, social condition, marital status, or physical or mental handicap, except that laws may benefit or protect minors, the elderly, the indigent, or the physically or mentally handicapped, or support article XI of this constitution.

Section 3. Age discrimination in employment prohibited. No person shall be denied equal employment opportunity or continuing employment because of age.

Section 4. Right of privacy. The right of individual privacy shall not be abridged.

Section 5. Searches and seizures. The right of the people to be secure in their persons and property against unreasonable searches and seizures shall not be violated. A warrant for search or seizure, returnable within a reasonable time, shall be signed by a judge of the superior court and may not be issued except upon probable cause supported by a sworn statement describing in detail the place to be searched and the persons or things to be seized. Wiretapping or other electronic surveillance shall not be used.

Section 6. Rights of accused.

a) A person is innocent of a criminal charge until proved guilty beyond a reasonable doubt. In criminal prosecutions the accused shall have the right to a speedy and public trial

by an impartial jury, to be informed of the charge in a language understood by the accused, to be confronted with any adverse witnesses, to compulsory process for obtaining witnesses and evidence, to the assistance of counsel for defense, and to court-appointed counsel if desired and if the accused is unable to afford counsel. A person arrested or detained in the investigation of an offense shall be advised fully of the reason for the arrest or detention, the right to remain silent, the right against self-incrimination, and the right to the assistance of counsel, including court-appointed counsel if desired and if the accused is unable to afford counsel.

b) Excessive bail or fines shall not be imposed. A person charged with an offense shall be presumed to have the right to be released pending trial on personal recognizance unless the court, after due consideration of the weight of the evidence, the circumstances of the charge, and the likelihood of appearance at trial, either denies release or requires posting of bail with sureties or cash.

c) No person shall be twice put in jeopardy for the same offense or be imprisoned for debt.

d) All civil rights shall be restored to a person convicted of a crime upon completion of sentence or other condition imposed by law.

Section 7. Self-incrimination. No person shall be compelled to give testimony which might tend to be self-incriminating.

Section 8. Habeas corpus. The writ of habeas corpus shall not be suspended except as the public safety requires in cases of rebellion or invasion.

Section 9. Slavery and torture prohibited. No person shall be enslaved, tortured, or subjected to cruel, inhuman, or degrading treatment or punishment.

Section 10. Capital punishment. No law shall be enacted instituting capital punishment unless provided by a majority of the persons registered to vote at a referendum on the question.

Section 11. Civil supremacy. The military power is subordinate to the civil power, and military personnel shall not in time of peace be quartered in private property without the consent of the owner or in time of war except as provided by law.

Section 12. Right to just compensation. Private property shall not be taken or damaged without just compensation.

Section 13. Right to know. A person may examine public documents or observe the deliberations of any agency of government, subject to reasonable limitations provided by law.

Section 14. Collective bargaining. Persons may organize to bargain collectively, subject to limitations provided by law.

Section 15. Marital and family rights. Marriage is an equal partnership of shared responsibility based on the free consent of a man and a woman. Legal parents have equal rights and responsibilities with respect to their children. Persons born of married or unmarried parents have equal rights.

Section 16. Right to a healthful environment. Each person shall have the right to a healthful environment.

Section 17. Restrictions on legislation. No bill of attainder, ex post facto law, or law impairing the obligation of contracts

shall be enacted.

mediately preceding the date of taking office.

Section 4. Powers of governor and lieutenant governor. a) The governor shall have those duties provided in this constitution and by law.

b) The governor shall report to the legislature once a year on the affairs of Guam, including the recommendation of bills the governor considers necessary or desirable, and may report and recommend bills at other times.

c) Unless otherwise provided in this constitution, the governor shall be responsible for proper and efficient governmental operations and shall appoint and may remove the directors of departments and agencies. An appointment shall be submitted promptly to the legislature and shall become effective sixty calendar days after submission unless disapproved by a majority of the members of the legislature.

d) The governor may declare a state of emergency in case of invasion, civil disturbance, natural disaster, or other calamity and mobilize available resources to respond to that emergency. A declaration of a state of emergency may be nullified upon a vote of two-thirds of the members of the legislature and may only be extended to more than seven calendar days with the concurrence of two-thirds of the members of the legislature.

e) The governor may grant reprieves, commutations, and pardons after conviction for any offense, subject to procedures as provided by law.

f) The governor shall submit to the legislature, by a date set by law, a budget for the succeeding two fiscal years setting forth in detail all proposed expenditures, anticipated revenues for the government, and the operational expenses of each department and agency; explanations of changes from estimates previously submitted; and a general appropriation bill authorizing expenditures and other bills containing recommendations for new or additional revenues for the next fiscal year. Once an annual budget is adopted by the legislature, the governor may not reallocate appropriated funds except as provided by law. If an annual budget is not enacted before the first day of the fiscal year, appropriations for government operations shall be at the level of the previous fiscal year's budget until a new budget is enacted.

g) The lieutenant governor shall have those duties provided in this constitution and by law or assigned by the governor. The lieutenant governor may not assume a constitutional duty of the governor except under section 8 of this article or when assigned duties by the governor in writing.

Section 5. Auditor general.

a) The auditor general shall be a qualified voter of Guam, a bona fide resident of Guam for at least two years immediately preceding the date of taking office, and have educational and professional experience as may be required by law. The auditor general shall be elected at a regular general election on a non-partisan ballot and shall serve for a term of four years or until a successor is elected and qualified.

b) The auditor general shall audit the receipt, possession, and disbursement of public funds by all branches, instrumentalities, and subdivisions of government and shall perform other duties as may be provided by law. The auditor general shall make an annual public report to the governor and the legislature. The auditor general is authorized to communicate directly with any person, department, or agency, to summon witnesses, and to administer oaths, and each department and agency shall furnish to the auditor general information on its activities, organization, financial transactions, and methods of business as the auditor general may require. To secure such information, the auditor general may examine any books, documents, papers, or records of a department or agency.

ARTICLE III. SUFFRAGE AND ELECTIONS

Section 1. Suffrage. A qualified voter shall be, on the date of the election, a United States citizen, eighteen years of age or older, registered to vote as provided by law, and a resident of Guam and of the district in which the election is held. A person serving a sentence for a felony or mentally incompetent as determined by a court may not vote. No other qualification to vote shall be imposed.

Section 2. Regular general election. The regular general election of Guam shall be held on the first Tuesday following the first Monday of November in each even-numbered year. Other elections, the registration of voters, the administration of elections, and other matters with respect to election procedures shall be as provided by law.

Section 3. Primary election. The primary election for the nomination of partisan candidates for election at the regular general election shall be held on the first Saturday of September in each even-numbered year. In a primary election for nomination of candidates for partisan elective office, each qualified voter may cast a vote for any candidate regardless of the political affiliation of the voter or candidate. The governor and lieutenant governor shall be nominated as a team.

Section 4. Date of taking office. Public officials elected at the regular general election shall take office on the first Monday of January following the election.

Section 5. Bona fide residency. A bona fide resident for the purposes of this constitution is a person who maintains a residence in Guam for an unlimited or indefinite period and to which the person intends to return whenever absent, even if for an extended period.

Section 6. Religious tests prohibited. No religious test shall ever be required as a qualification to any office or public trust.

ARTICLE IV. EXECUTIVE BRANCH

Section 1. Executive power. The executive power is vested in the governor, who shall be responsible for the faithful execution of the constitution and laws of Guam and those provisions of the constitution and laws of the United States applicable to Guam.

Section 2. Election of governor and lieutenant governor. The governor and lieutenant governor shall be elected by the qualified voters of Guam at a regular general election and shall serve for a term of four years or until a successor is elected and qualified. Each qualified voter shall cast a single vote applicable to both offices, and the governor and lieutenant governor shall be elected upon receiving a majority of the total cast. Run-off elections shall be provided by law. A governor and lieutenant governor may not serve more than two consecutive terms in the same office.

Section 3. Qualifications of governor and lieutenant governor. The governor and lieutenant governor shall each be a United States citizen, thirty years of age or older, and a bona fide resident of Guam for at least fifteen years im-

c) The auditor general may not, while in office, actively engage in partisan politics or, within one year of ceasing to hold office, run for other elective office.

Section 6. Attorney general.

a) The attorney general shall be a qualified voter of Guam, a bona fide resident of Guam for at least two years immediately preceding the date of taking office, and licensed to practice law before the supreme court of Guam. The attorney general shall be elected at a regular general election on a nonpartisan ballot and shall serve for a term of four years or until a successor is elected and qualified.

b) The attorney general shall prosecute criminal violations of Guam law, provide legal advice to the government, represent the government in civil matters, and have other duties and responsibilities as provided by law.

c) The attorney general may not, while in office, engage in the private practice of law or actively engage in partisan politics or, within one year of ceasing to hold office, run for other elective office.

Section 7. Compensation. The governor, lieutenant governor, auditor general, and attorney general shall receive a salary and allowances as provided by law and may not, while in office, hold another public or private office or receive other compensation for personal services.

Section 8. Vacancy, absence, and disability.

a) In case of the removal, death, or resignation of the governor, the lieutenant governor shall become governor. If the office of lieutenant governor becomes vacant for any reason, the governor shall appoint a qualified person who shall become lieutenant governor for the remainder of the original term if one year or less remains in the term of office, or, if more than one year remains, who shall act as lieutenant governor until a special election is held to elect a lieutenant governor. If neither the governor nor lieutenant governor is able to serve in the office of governor, the office shall be filled as provided by law.

b) If the governor is physically absent from Guam for more than fifteen consecutive days, the lieutenant governor shall act as governor. If the governor is physically absent from Guam at the time of any emergency, the lieutenant governor shall assume the governor's powers under section 4(d) of this article. If the lieutenant governor is absent or otherwise unable to act as governor, the office shall be filled temporarily as provided by law. If the governor and lieutenant governor are simultaneously absent for more than thirty consecutive days, those offices become vacant, and a special election shall be held to elect a governor and lieutenant governor.

c) If the governor is temporarily unable to discharge the duties of office because of physical or mental disability, the lieutenant governor shall act as governor. If the lieutenant governor is unable to act as governor, the office shall be filled temporarily as provided by law. All the justices of the supreme court, upon the petition of two-thirds of the members of the legislature, shall determine all questions with respect to the disability of the governor or lieutenant governor.

Section 9. Administrative departments. The number of executive branch departments, agencies, and instrumentalities of the government and their respective functions, powers, and duties shall be provided by law. The governor, through the issuance of executive orders consistent with law, may make changes in the allocation of departments, agencies, and instrumentalities and in their functions, powers, and duties as may be necessary for efficient administration.

ARTICLE V. LEGISLATIVE BRANCH

Section 1. Legislative power. The legislative power of Guam is vested in a single house designated the legislature of Guam and extends to all subjects of legislation.

Section 2. Composition of the legislature. The legislature shall have no less than fifteen and no more than twenty-seven members. Each legislator shall be elected by district at a regular general election and shall serve for a term of two years or until a successor is elected and qualified. Each voter residing in a legislative district shall be permitted to vote for the whole number of candidates to be elected within that district. The legislature shall be the judge of the election and qualifications of its members and may by law vest in the courts the trial and determination of contested elections.

Section 3. Qualifications of legislators. Each member of the legislature shall be a qualified voter of Guam and a bona fide resident of Guam for at least five years and of the district the legislator will represent for at least one year immediately preceding the date of taking office.

Section 4. Reapportionment and redistricting.

a) Guam shall be divided into no less than five compact and contiguous districts separated to the extent practicable by historical or geographical boundaries so that each legislator represents approximately the same number of registered voters based on the number of registered voters in the most recent regular general election for governor.

b) A legislative reapportionment commission shall be constituted every eight years and within 120 days of the preceding regular general election. The commission shall consist of three members selected by the presiding officer of the legislature and three members selected by each minority party leader in the legislature. A vacancy in the commission shall be filled by the initial selection authority within fifteen days after the vacancy occurs. A vacancy not filled within the time specified shall be filled promptly thereafter by the supreme court. The commission shall select a chairman from among its members, shall act by a majority vote of its members, and shall adopt its own rules of procedure except as provided by law. Its members shall be compensated and reimbursed for necessary expenses. A member of the reapportionment commission shall not be eligible to become a candidate for election to the legislature in either of the next two regular general elections under a reapportionment or redistricting plan. Within 120 days, the commission shall publish its reapportionment or redistricting plan, which shall become law upon publication.

c) If a plan pursuant to section 4(b) has not been published within the applicable 120-day period, the supreme court, within thirty days after the expiration of the 120-day period, shall promulgate a reapportionment or redistricting plan, which shall become law upon publication.

d) Upon the petition of any voter, the supreme court shall have original jurisdiction to review a plan and to amend it to comply with the requirements of this constitution within sixty days after the publication of the plan.

Section 5. Vacancies. A vacancy in the legislature shall be filled by special election if more than six months of the unexpired term remains, or, if the six months or less of the unexpired term remains, shall remain vacant until the next regular general election.

Section 6. Compensation. The members of the legislature shall receive a salary and allowances as provided by law. A change in compensation may not apply to the legislature that enacts it and may not be enacted in the period between the date of a regular general election and the date a new legislature takes office.

Section 7. Sessions. The legislature shall hold its initial meeting on the first Monday of January in the year following the regular general election and shall meet as a continuous body for two years. The legislature may be convened in special sessions by its presiding officer or at the written request of a majority of the members or by the governor. When meeting pursuant to a call by the governor, the legislature shall consider only those subjects described in the call.

Section 8. Immunity. Members of the legislature may not be questioned in any place for any written or oral statement made in the legislature. Members of the legislature may not be subject to arrest while going to or coming from a meeting of the legislature except for commission of a felony or breach of the peace.

Section 9. Organization and procedures. The legislature shall choose its presiding officer from among its members, shall determine its rules of procedure, and may compel the attendance of absent members and discipline its members. A majority of the members of the legislature shall constitute a quorum to do business. The legislature shall keep a journal of its proceedings which shall be published from day to day. The legislature may compel the attendance and testimony of witnesses and the production of books and papers before the legislature or its committees with the approval of a majority of its members.

Section 10. Bills.

a) The legislature may not pass a bill except by an affirmative vote of a majority of its members. The legislature may not take final action on a bill until it considers the bill at a public hearing for which four days advance notice was published, except that the notice or hearing requirement may be waived in case of emergency by a vote of two-thirds of the members of the legislature. Final action on a bill may be taken only at a public session.

b) Each bill, except bills for general appropriations or for the codification or rearrangement of existing laws, shall contain only one subject.

c) A general appropriation bill shall contain only appropriations for the ordinary expenses of the legislature, executive, or judicial branches, for interest on the public debt, or for public schools. Every other appropriation shall be made by a separate bill, containing only one subject. No appropriation shall be made unless sufficient revenues are anticipated to cover the appropriation.

d) A legal challenge to legislative compliance with this section must be filed within thirty days of the enactment of the challenged law.

Section 11. Action by the governor on bills.

a) A bill passed by the legislature shall be presented to the governor within fifteen calendar days of its passage and shall become law when signed by the governor. If the governor vetoes a bill, it shall be returned to the legislature within fifteen calendar days with a statement of reasons for the veto. The governor may reduce or veto an item in an appropriation bill and sign the remainder of the bill, returning the item reduced or vetoed to the legislature within fifteen calendar days with reasons for the action, or refer a bill to the legislature with recommendation for amendment. A bill not signed, vetoed, or referred within fifteen calendar days of presentation to the governor shall become law.

b) A bill or item of a bill vetoed or reduced by the governor may be considered by the legislature within thirty calendar days of its return and shall become law as originally passed upon the affirmative vote of two-thirds of the members of the legislature. The legislature, by the affirmative vote of a majority of its members, may pass a bill referred by the governor in accordance with the governor's recommendations for change and return it to the governor for reconsideration. The governor may not refer a bill for amendment a second time.

c) The title and a summary of each bill enacted into law

shall be published within seven days after its enactment. A legal challenge to legislative compliance with this subsection must be filed within thirty days of the enactment of the challenged law.

Section 12. Impeachment. The legislature may initiate impeachment proceedings against an elected official, justice of the supreme court, or judge of the superior court by the affirmative vote of two-thirds of its members. The judicial council shall remove an elected official, justice of the supreme court, or judge of the superior court, after hearing, upon the affirmative vote of two-thirds of its members. Causes for impeachment shall be commission of a felony, corruption, serious neglect of duty, or other violations of the public trust that affect the performance of official duties.

Section 13. Limitations on activities. A member of the legislature may not serve in any other position under Guam or the United States, including an independent board, agency, authority, or commission. A member of the legislature who has a direct financial interest in a bill before the legislature shall disclose that interest and may not vote on the bill.

Section 14. Release of impounded funds. The legislature, upon the affirmative vote of two-thirds of its members, may release funds appropriated by the legislature but impounded by the governor.

ARTICLE VI. JUDICIAL BRANCH

Section 1. Judicial power. The judicial power of Guam shall be vested in a supreme court, a court of general jurisdiction designated the superior court, and courts of limited jurisdiction as may be established by law.

Section 2. Supreme court. The supreme court shall be the highest court of Guam and shall have appellate and original jurisdiction as provided by law. The supreme court shall consist of a chief justice and two associate justices. The number of justices may be increased by law only upon the recommendation of the judicial council.

Section 3. Superior court. The superior court shall have original jurisdiction over all causes of action, except for those exclusively vested in the supreme court or in the courts of limited jurisdiction, and may have appellate jurisdiction as provided by law. The number of superior court judges shall be provided by law, and the court may be divided into functional divisions as provided by supreme court rules.

Section 4. Nomination, appointment, eligibility, tenure, and compensation of justices and judges.

a) The governor shall fill each vacancy in the office of justice of the supreme court or judge of the superior court by appointing a person from a list of three or more nominees presented by the judicial council. Each appointment shall be submitted promptly to the legislature and shall become effective thirty calendar days after submissions unless disapproved by a majority of the members of the legislature.

b) A justice of the supreme court or judge of the superior court shall be a United States citizen, a bona fide resident of Guam for at least three years immediately preceding the date of the appointment, and licensed to practice law before the supreme court of Guam.

c) Each justice of the supreme court and judge of the superior court shall serve until death, retirement, removal, or rejection by the electorate.

d) At the first regular general election held more than four years after the date of appointment, and at every third regular general election thereafter, each justice of the supreme court and judge of the superior court shall be subject to approval or rejection in a nonpartisan election. The office of justice of the supreme court or judge of the superior court becomes vacant forty-five calendar days after the election at which the justice or judge declines to run or is rejected by a majority of those voting.

e) A justice or judge of the courts of Guam shall receive a salary and allowances as provided by law which shall not be decreased during the term of office.

f) The selection of judges of courts of limited jurisdiction and their qualifications, tenure, retirement, or removal may be provided by law.

Section 5. Judicial council. The judicial council shall consist of seven members: three elected by the Guam bar association from among its members; three non-attorney members appointed by the governor; and a seventh member selected by the other six. Nominees of the bar association and the governor must be confirmed by a majority of the members of the legislature. The council shall select a chairperson from among its members. Members of the council shall be compensated as provided by law. The council shall make recommendations for the improvement of the administration of justice to the supreme court and the legislature at least every two years and perform other duties provided by law and this constitution.

Section 6. Limitations on activities. No justice of the supreme court or judge of the superior court shall, while in office, engage in the practice of law or hold any other paid position or directly or indirectly contribute to or hold any office in a political organization or actively engage in partisan politics or, within one year after ceasing to hold judicial office, run for elective office.

Section 7. Administration. The chief justice shall administer the judicial system and may assign judges from one division of the superior court to another or, for temporary service, from one court to another.

Section 8. Rulemaking power. The supreme court shall propose rules governing the administration of all courts, civil and criminal procedure, judicial ethics, admission to, expulsion from, and governance of the Guam bar association, and other matters of judicial administration. A proposed rule shall become effective sixty calendar days after submission to the legislature unless disapproved by a majority of the members of the legislature. To practice law before the courts of Guam a person shall be a member of the Guam bar association.

Section 9. Suspension. Upon the recommendation of the judicial council, the governor may suspend a justice or judge for a period of up to sixty calendar days for causes as may be provided by law.

ARTICLE VII. MUNICIPAL AND VILLAGE GOVERNMENT

Section 1. Creation of municipal government. Procedures for the creation of counties, cities, and other political subdivisions shall be provided by law. A referendum shall be held on the creation of a proposed political subdivision upon the petition of twenty-five percent of the registered voters of the pro-

posed subdivision, except that any such referendum shall not be held more often than once every four years, shall be held twelve to eighteen months prior to the expiration of the term of office of the chief official of the existing village or subdivision, and shall take effect upon the expiration of the term of office of that official.

Section 2. Referenda. A political subdivision may be created only with the approval of a majority of those living within the proposed subdivision and voting in a referendum on the creation of the proposed subdivision. An existing village or municipality may not be annexed or incorporated without the approval of a majority of those living in that village or municipality and voting in a referendum on such annexation or incorporation.

Section 3. Powers and structure. Powers necessary for the proper functioning of village and municipal government, including the enactment of local ordinances not inconsistent with law, zoning, and development and maintenance of local improvement projects, may be delegated to any village or political subdivision by general law. A minimum of one and one-half percent of the budget for each fiscal year shall be appropriated by law to the village and municipal governments, and provision may be made for the approval by the legislature of village or municipal expenditures. A political subdivision created under the provisions of this article shall have the power to frame and adopt a charter for self-government within the limits and under the procedures provided by general law.

ARTICLE VIII. EDUCATION

Section 1. Educational policy. All persons are entitled to education according to their capabilities and shall be provided educational opportunities and programs within limitations provided by law.

Section 2. Elementary, secondary, and higher education. A uniform system of public elementary, secondary, and higher education, which shall include programs for persons with special educational needs and abilities, shall be provided by law. Funds necessary to maintain quality public education shall be appropriated annually. Elementary and secondary education shall be free and compulsory, within age and educational levels prescribed by law.

Section 3. Board of education and board of regents. Not less than five educational districts substantially equal in population shall be established by law. Each district shall elect at a regular general election two representatives, one to the board of education and one to the board of regents. Elected district board members shall serve for any number of four-year terms, and their qualifications and compensation shall be prescribed by law. A vacancy shall be filled by special election if more than six months remains in the unexpired term or, if less than six months remains, shall remain vacant until the next regular general election. One student representative, to be selected in a manner and for a term provided by law, shall serve on each board. The board of education shall direct and supervise public elementary and secondary education, and the board of regents shall direct and supervise public higher education. Each board shall have the authority to take all actions necessary and proper to effect its responsibilities as provided by law, including, but not limited to, the determination of conditions of employment and the receipt and disbursement of funds.

Section 4. Coordination of education policies. The board of education and board of regents shall coordinate the education policies set forth in this article by taking appropriate joint actions as may be provided by law. Representatives from boards and other public and nonpublic agencies responsible for education shall meet at least every two years to promote the uniformity and advancement of education on Guam by taking appropriate joint actions, including the adoption of resolutions and the recommendation of bills to the legislature. Funds necessary for such meetings shall be appropriated by law.

Section 5. Aid to students of nonpublic schools. The right of a student to fulfill compulsory attendance laws by attendance at a nonpublic school that meets standards set by the board of education is guaranteed. Financial and other aid may be extended in a manner not inconsistent with this constitution.

ARTICLE IX. NATURAL RESOURCES

Section 1. Environmental policy. The land, water, and other natural resources of Guam shall be conserved and managed to preserve scenic beauty, guarantee clean air and pure water, encourage agriculture, and provide for recreation.

Section 2. Land use. A land use plan shall be adopted by law identifying urban, rural, agricultural, and conservation areas. The uninhabited islands within the jurisdiction of Guam shall be identified as conservation areas. Public land shall not be sold but may be leased or exchanged.

Section 3. Marine resources and submerged lands. The marine resources and the submerged lands off the coast of Guam belonging to or under the jurisdiction of Guam shall be conserved, developed, and managed for the social and economic benefit of the people.

Section 4. Eminent domain. Guam shall have the power of eminent domain as a last resort to acquire property necessary for the accomplishment of a public purpose. Land obtained by eminent domain which is not initially used for the specific purpose for which it was obtained shall be returned to the original owner or the owner's successor as provided by law.

ARTICLE X. TAXATION

Section 1. Tax authority. All taxes shall be levied by law, and the legislature may not surrender, suspend, or contract away its power to initiate tax legislation. A tax may be levied or an appropriation of public money made only for a public purpose.

Section 2. Income tax. Laws shall be enacted to administer and enforce the income tax and other related federal laws applicable to Guam.

Section 3. Earmarking tax revenues. Revenue from any tax, except the income tax, may be set aside for a specific public purpose by law.

Section 4. Public debt limitation. Public debt may be incurred which is required to be repaid from tax revenues and which is secured by the full faith and credit of Guam. Aggregate public debt may not exceed fifty percent of the total revenue collected in the previous fiscal year, and total repayments required in any fiscal year on the aggregate public debt may not exceed ten percent of the revenue of the most recent fiscal year in which public debt was incurred. Bonds or other obligations of Guam payable solely from revenues derived from any public improvement or undertaking shall not be considered public debt within the meaning of this section.

Section 5. Prohibition of use of public funds for religious purposes. No public money or property shall ever be appropriated, supplied, donated, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary as such.

ARTICLE XI. CHAMORRO CULTURE

Section 1. Cultural development. No law shall be passed abridging the development of the Chamorro culture, language, traditions, or customs. Places of significance to the culture, tradition, and history of the Chamorro people shall be preserved as provided by law. Study of Chamorro culture, including language, traditions, history and art, shall be an integral part of the public educational system established under article VIII of this constitution. A commission shall be established by law to study and promote the perpetuation of Chamorro culture and traditions.

Section 2. Economic development. To redress past discrimination and provide equal opportunity for the Chamorro people, special rights for Chamorros to off-shore fishing and harvesting of marine resources may be provided by law.

Section 3. Official languages. Chamorro and English shall be the official languages of Guam, except that Chamorro shall be required for public acts and transactions only as provided by law. This constitution shall be published in both languages.

Section 4. Official fruits. The official fruits of Guam shall be the betel nut and the coconut.

ARTICLE XII. PUBLIC EMPLOYMENT AND SOCIAL SERVICES

Section 1. Code of ethics. A code of ethics applicable to all appointed and elected public officials and employees, in-

cluding members of boards, commissions, and other bodies, shall be established by law. The code of ethics may provide for public disclosure by appointed or elected public officials of financial or personal interests to prevent conflicts of interest in the performance of official duties.

Section 2. Merit system. A system of public personnel administration, based on merit and fitness as demonstrated by examination or by other evidence of competence, shall be established by law.

Section 3. Pension and retirement rights. A mandatory pension plan for public employees may be provided by law. Membership in a public employees' pension system shall be a contractual relationship, the accrued benefits of which may not be diminished or impaired.

Section 4. Social services. Social services, including health care, should be provided by law to assist those who are unable to adequately provide for their own needs.

ARTICLE XIII. INITIATIVE AND RECALL

Section 1. Initiative. The people may enact laws and may repeal laws, except appropriations, by initiative. An initiative petition shall contain the text of the proposed law or the law sought to be repealed and be signed by twenty-five percent of the registered voter in each legislative district or forty percent of the registered voters in each of three-fifths of the legislative districts. These percentages may be reduced by law. An initiative petition shall take effect if approved at a regular general election by a majority of the persons voting in the election. A law enacted or repealed by initiative may not be vetoed by the governor and may not be repealed, amended, or re-enacted by the legislature except upon the affirmative vote of three-fourths of its members.

Section 2. Recall. The people may recall elected public officials, including justices and judges of the courts of Guam. A recall petition shall identify the public official sought to be recalled by name and office, state the grounds for recall, and be signed by twenty-five percent of the number of persons registered to vote in the most recent election for the public official. This percentage may be reduced by law. A special recall election shall be held not later than sixty calendar days after the filing of the recall petition. A public official shall be recalled upon the affirmative vote of a majority of the persons voting in the election. A recall petition may name only one public official to be recalled and may not be filed against an official more than once a year or during the first six months of a term of office.

ARTICLE XIV. CONSTITUTIONAL AMENDMENT

Section 1. Proposal of amendments. Amendments to

the constitution may be proposed by the legislature or by constitutional convention.

Section 2. Legislative proposals. The legislature, by a vote of three-fourths of its members, may propose an amendment to this constitution that does not embrace more than one subject. An action of the legislature under this section may not be vetoed.

Section 3. Constitutional convention. The question, "Shall there be a constitutional convention to propose amendments to the constitution?" may be submitted by initiative to the voters at a regular general election no sooner than fifteen years after the effective date of this constitution. Upon the affirmative vote of a majority of the persons voting in the election, the legislature shall promptly convene a constitutional convention. Delegates to the convention shall be elected on nonpartisan basis.

Section 4. Ratification of amendments. A proposed amendment to this constitution shall be submitted to the voters for ratification at the next regular general election that is held at least sixty calendar days after the amendment is proposed. An amendment shall become effective if approved by three-fifths of the persons voting in the election.

TRANSITIONAL SCHEDULE

Section 1. Ratification of the constitution by the people of Guam. This constitution, as finally approved or modified by the Congress of the United States under section 5 of P.L. 94-534 (October 21, 1976), shall be submitted to the voters of Guam no later than ninety days after final approval or modification together with any formal comments made by the constitutional convention on any modification made by Congress. The constitution as approved or modified by Congress shall be ratified upon the affirmative vote of a majority of those voting yes or no on the ratification question.

Section 2. Effective date. This constitution shall take effect immediately upon its ratification by the people of Guam except as provided in sections 3 and 6 of this transitional schedule.

Section 3. Elections.

a) If ratification occurs on or before August 15, 1978, an election shall be held on the first Tuesday following the first Monday of November in 1978 to fill the elective offices established by this constitution; members of the legislature shall be elected by district under subsection b) of this section; and notwithstanding the provisions of article III, section 3, the date for the primary election in 1978 shall be provided by law. If ratification occurs after August 15, 1978, the first election for legislators, attorney general, auditor general, and board of regents under this constitution shall be held on the first Tuesday following the first Monday of November in 1980; the plan for legislative districts in subsection b) of this section shall apply to that election; and other elective offices established by this constitution shall be filled at the regular general election in 1982. The Guam Legislature shall establish the procedures, including registration of voters, required to conduct the first election under this constitution and shall appropriate sufficient funds for the election.

b) The first legislature under this constitution shall consist of twenty-two members elected from the following districts: district 1: Santa Rita and Agat, electing three representatives; district 2: Piti, Asan-Maina, and Agana, electing two representatives; district 3: Agana Heights and Sinajana, electing two representatives; district 4: Mongmong-Toto-Maite, and Barrigada, electing three representatives; district 5: Mangilao and Chalan Pago-Ordot, electing two representatives; district 6: Yona and Talofoto-Ipan, electing two representatives; district 7: Umatac, Merizo and Inara-

jan, electing two representatives; district 8: Tamuning-Tumon, electing two representatives; district 9: Dededo, electing three representatives; and district 10: Yigo, electing one representative.

Section 4. Continuity of laws, executive orders, and regulations. Laws, executive orders, and regulations in force in Guam on the effective date of this constitution that are consistent with this constitution shall continue in force until they expire or are amended or repealed. Laws, executive orders, and regulations that are inconsistent with this constitution shall be void to the extent of the inconsistency.

Section 5. Continuity of government employment and operations. Employees of the government of Guam and its political subdivisions on the effective date of this constitution shall be employees of the constitutional government on the same terms and conditions of employment as were enforceable against Guam or its subdivisions, until otherwise provided by law. Employees of the government of Guam and its political subdivisions shall have the same functions and duties after becoming employees of the constitutional government until otherwise provided by law.

Section 6. Continuity of judicial matters. On the date of enactment of federal legislation regulating the relationship between the local courts of Guam and the federal judicial system, the superior court of Guam shall become the constitutional superior court of Guam and the judges serving on the superior court shall become judges of the constitutional superior court, except that the presiding judge of the superior court shall become the chief justice of the supreme court. Appeals on civil and criminal matters shall continue to vest in the United States District Court of Guam until such time as the supreme court assumes its functions under this constitution, at which time they shall vest in the supreme court. Civil and criminal matters pending before the superior court of Guam on the date of enactment of federal legislation regulating the relationship between the local courts of Guam and the federal judicial system shall remain pending before the constitutional superior court. Civil and criminal matters pending on appeal before the United States District Court of

Guam on that date shall remain within the jurisdiction of that court until finally decided. Rules of the superior and other courts of Guam not contrary to or inconsistent with the provisions of this constitution shall remain in force until they expire or are altered or repealed. The chief justice of the supreme court, if appointed pursuant to the provisions of this section, and the judges of the superior court holding office on the effective date of this constitution shall be subject to approval or rejection by the voters as provided by this constitution at the regular general election held in 1980.

Section 7. Continuity of license to practice law. Persons licensed to practice law before the courts of Guam on the effective date of this constitution shall be licensed to practice law before the supreme court of Guam and shall be members of the Guam bar association.

Section 8. Continuity of village and municipal government.
a) The commissioner system in effect on the effective date of this constitution, as set forth in Title XVI of the Guam Government Code and amendment by Public Law 14-27, shall remain in force unless subsequently altered in accordance with the provisions of article VII of this constitution, except that, in addition to any powers set forth in Public Law 14-27, the Chief Executive Officer shall have the authority to communicate directly with any person, department, or agency, and each department and agency shall furnish to the Chief Executive Officer such information as may be required for the proper administration of village government.

b) Improvements in the existing form of village government that do not substantially alter the commissioner system may be provided by law.

c) Procedures required for the creation of counties and cities under article VII, section 1, shall be provided by law within one year of the effective date of this constitution.

Section 9. Prospective operation of rights. Any rights or obligations, procedural or substantive, created for the first time by this constitution shall be prospective and not retroactive.

Section 10. Succession. The constitutional government of Guam shall succeed to all rights and obligations of the previous government of Guam on the effective date of this constitution. The validity of all public and private bonds, debts, and contracts, and all claims, actions, and causes of actions, shall continue as if no change had taken place.

Appendix IV

Proposed constitution for the Territory of Guam, official returns

Special election: 4 August 1979

Grand total count

Question: "Do you approve the proposed constitution
for the Territory of Guam?"

Number of votes received: Yes: 2,367 No: 10,671

Ballot count:

Blank - 76

Too many - 40

Total rejected -- 116

Total counted - 13,038

Total ballots - 13,154

Certified by:

Date: 5 August 1979

/Signed by the Acting Chairman and six members
of the Election Commission/

Appendix V

Letter dated 25 April 1979 from Mr. Antonio R. Unpingco,
Senator, Fifteenth Guam Legislature, to President
Jimmy Carter

I am in the process of drafting a resolution asking the Congress of the United States of America to consider a change of political status for Guam from an unincorporated Territory of the United States to an independent republic.

Since July 1950, we have been a Territory and the people have been holding American citizenship. Our loyalty as Americans is beyond reproach. We have accepted the responsibilities as Americans in every manner demanded of us, including risking the lives of our sons in Korea and Viet Nam.

With the exception of the brief enemy occupation during the Second World War, we have proudly hoisted the American flag over our island each and every day, since 1898. Even during the enemy occupation, we protected the flag at the risk of our lives.

Not even in Georgia will you find Americans more proud or more loyal. This is evidenced by the fact that Guam lost more lives and our men won more medals for bravery in Viet Nam than any other American community of comparable size.

Even though we may have disagreed, we have always defended the actions of the President of the United States, even though we do not have the right or privilege to vote for that office.

Since the phrase was coined by a president dear to every Guamanian, we have not asked what our country can do for us. We have always asked what we can do for our country. Most of the time we didn't wait for an answer. We gave to our country and gave willingly and proudly.

However, as we look around us - to the north at the Commonwealth of the Northern Marianas, to the east, to the west and to the north at the emerging political entities of what is known as Micronesia - we are beginning to wonder if our loyalty and sacrifices are not being taken too much for granted.

Frankly, Mr. President, we have arrived at the conclusion that there are simply too many federal restraints and just too little regard for us when the Federal Government makes decisions affecting our island Territory.

We are the westernmost Pacific outpost of the United States. We are the closest American soil to mainland China; we are the closest to the problem areas of the Philippines, Okinawa, Taipei, the home islands of Japan; to the powder kegs of Cambodia, Laos, Thailand and other parts of South-East Asia.

Since 1950, we have been America's showcase of democracy, right at the doorstep of what was until recently the "Bamboo Curtain".

We feel it's time that the national Government showed us just a little more consideration. Permit me to give you just a few examples of what we mean:

(a) When you made the unilateral decision to drop recognition of Nationalist China and extend diplomatic recognition to Mainland China, there was no consideration for the feelings of our people, nor any question of how such action would affect us economically and politically.

You are the President of the United States. We are loyal Americans and we will support your decision though we disagree with you.

But, why could not the Consulate General's Office remain open in Guam, to help us protect a Chinese investment of more than \$US 70 million? Mr. President, we want that consulate back. If we don't get it back I'll introduce legislation to open our own office and invite Taiwan to manage it for us.

(b) The Coastwise Shipping Act [the Jones Act] places most difficult restraints on our economic progress. American shipping lines are not anxious to serve Guam because we have no export commodities, making their trips a one-way venture.

Yet, American surface carriers invoke the Jones Act when foreign carriers express an interest in serving our needs. The application of the Jones Act to Guam serves no practical purpose and hinders our economic advancement.

(c) We have the same situation with air service. Because of the infrequent service and exorbitant freight rates of American surface carriers, we are nearly totally dependent on air service.

We depend on airplanes for passenger traffic, for mail, food, medicine and supplies.

Yet, we have no say in proceedings of the Civil Aeronautics Board (CAB) when it comes to fares and routes. Our input is not considered or requested when the national Government negotiates with foreign countries for bilateral air agreements. But, we are affected directly by the decisions in the negotiations. We feel, because of our unique geographical location and our near total dependence on air traffic, that we should be permitted to negotiate separately and directly with countries friendly to the United States.

(d) We have no input when the Department of Defense makes decisions in personnel cutbacks, or in expansions of the United States military needs in Guam. As it is, the United States Government today controls fully one third of our island. When that land was appropriated we had no say in the proceedings and we still don't.

(e) When the United States made the decision to send 110,000 Vietnamese refugees to our island we were not advised or asked if we had any objections.

We didn't object, but we feel there was a matter of common courtesy missing and another example of how we are taken for granted.

(f) We now have in our Territory about 6,000 immigrants, some of whom are permanent residents and others are temporary H-2 construction workers.

I think you will find that this ratio is far above that of any other American community. Yet, our territorial Government is not consulted as to what the impact

will be on the community, when the United States Immigration and Naturalization Service admits immigrants to Guam.

(g) We are even told by the Federal Government what wages we are to pay our people, again not considering the impact on the economy. Only two years ago, the United States Department of Labor told us that we must pay certain wages to certain people. Overnight, the cost of a home doubled. A select few people won increased wages, but the Territory as a whole suffered a terrible blow to the economy.

(h) Guam is the first American soil travellers from Asia set foot upon. But, when they do not go through customs and immigration inspection here, they get the feeling that Guam is perhaps not very American. When our own people, originating in Guam, are required to go through customs and immigration inspections, in Honolulu, we get the feeling we are really not Americans travelling freely between the states as the Constitution provides.

Why cannot Guam be a port of entry? This is American soil and we are Americans.

Mr. President, these are only a few examples of the unreasonable constraints placed on us by the Federal Government, restraints that directly impair our efforts to create a viable economy.

We are placed in a position of going to Washington to beg for federal assistance. No American should be placed in the position of begging for welfare, particularly if we have the desire and the resources with which to build an economic base that would require limited federal assistance.

We look at the Commonwealth of the Northern Marianas, where the political leaders won from the United States Government such concessions as elimination of the Jones Act. They won rights over their lands and they gained at the outset the right to elect their own governor and to establish their own judicial system. These are political rights extended to us only after 20 years of negotiations with the national Government.

We look at the proceedings in Palau where the people have all but thumbed their noses at the United States and won the right to tell the United States which lands were available and which were not.

The Palauans placed constraints on the United States by banning all nuclear activity, even the entry of nuclear-powered ships of the United States. Yet, the United States is charged with the defence of those islands.

The Palauans have a political status in free association with the United States, but retain the right to negotiate treaties and pacts with any nation so long as that nation is friendly to the United States.

The Palauans can negotiate directly with Japan, the Philippines, China and other such nations for trade, financial assistance and for air and surface routes. The Palauans can even control their own immigration laws and establish their own territorial boundaries.

Guamanians, loyal American subjects since 1898, and American citizens since 1950, can do none of these things.

These are the reasons why, Mr. President, I am taking the initiative in asking the United States Congress to change our political status, preferably to that of an independent republic.

Then, and perhaps only then, will we have the right to officially invite the Republic of China to maintain a consular office in Guam to protect the millions of dollars the Chinese have invested in Guam.

Then we could say to hell with the Jones Act. We will invite ships of any friendly flag to serve the needs of our island and we will be our own negotiating body in so far as air routes are concerned. We will say who will land at our airport and who will not.

We will tell the Department of Defense what lands they can or cannot use and how much they will have to pay for the land. My recommendation to my constituents would be to demand at least as much as \$US 5 billion to be handed to the Republic of the Philippines over the next five years.

We will have the ultimate word as to who and how many will be offered emigrant status in our Territory. The Federal Government will no longer tell us how much we are to pay certain people, disrupting our wage scales, but only after we make an impact study, which the Federal Government failed to do.

Maybe we could not, as an independent republic, have the right to travel between the states. But, we don't have that right now. So, we would lose very little in that regard.

There is only one distracting aspect among our desires for more recognition of our unique status, and that is that we still think America is the greatest country in the world. For that reason, we would always want to be in association with the United States - sort of like the Palauans, having our pie and eating it, too.

I don't think we are being ungrateful - we have been grateful since 1898 - and I don't think we are being unreasonable. Our unique geographical location and our unique role as a member of the American family dictates a status more unique than that of the 50 states.

The size of our island will not accommodate vast numbers of immigrants; the base of our economy will not permit wages as high as those in the 50 states - what sense is there in raising the wages and then raising the prices, too?

The Federal Government owns one third of our island now. We don't have enough land to permit that situation to continue. There was a time many years ago when we didn't need the land. But, we want to grow, we want to boost our economy, we want to build and we need that land now. If we can't have our land back - the land that the Federal Government is not actually using - then we should be compensated for it at the same rate as the United States compensates foreigners.

Our unique geographical location dictates the necessity of full-service consulates on our island from those countries in our immediate vicinity.

The Coastwise Shipping Act (otherwise known as the Jones Act) is actually a stranglehold on our island and it serves absolutely no purpose for the American shipping industry as it relates to Guam.

We are not asking you to turn your back on cabotage. We have an interest in protecting our flag carriers too. Nevertheless, we see no reason why we cannot negotiate directly with such friendly countries as the Republic of Korea, the Republic of the Philippines, the Republic of China and Japan for air service between Guam and those countries.

If we could do all these things for ourselves, we would not want to change our political status, unless it would be one that brought us closer to the "family". To allow us to do these things for ourselves and to eliminate the strangleholds on our economy would make us much better Americans; we would be prosperous Americans, happy Americans and damn proud Americans.

Unless, however, we can get some relief from our situation, I see no way out except to change our political status to one similar to our neighbors in what used to be called Micronesia.

Appendix VI

Letter dated 26 June 1979 from Mr. Antonio R. Unpingco, Senator,
Fifteenth Guam Legislature to President Jimmy Carter

I would like to call your attention to my letter of 25 April 1979. ^{a/} I know you have been occupied with matters of far more importance to the nation and the American people, among whom are the 110,000 who live on Guam.

However, it has been over 60 days since I wrote, and I believe that, as an elected representative of the people of this American Territory, I deserve at the very least an acknowledgement that you have received the letter.

This lack of response seems to follow pretty well the pattern of Washington's thinking towards Guam.

I realize that we don't vote for the President of the United States, but I certainly hope this fact has not made you acquire an indifferent and passive attitude towards our island. Although we are not able to elect you as our President, the people of Guam still look up to, respect, and consider you our representative.

Apparently, my first letter was not enough to gain your attention. Therefore, please give me this opportunity to try again to explain why Guam is truly worthy of your time and consideration.

Military bases have been planted here. These bases were purchased by the United States Government from people who had no opportunity to object to the taking of their land nor an opportunity to negotiate a fair price.

The Philippines is given billions of dollars by the United States for their military bases there. The American bases on Guam cost the United States taxpayer virtually nothing.

If you would take the time to look at this island in the middle of the Pacific, you might find that you have one of the most valuable pieces of real estate in the world. Where else is there a more military, strategically located piece of American real estate?

As the westernmost Pacific outpost of the United States, we are located a scant five hours flying time from Peking. Even closer is the Republic of the Philippines, only three hours away. Japan is three hours and Taiwan only four hours away.

I might add that, despite our near location to these Far East and Eastern Asian areas, our closest friend is, and it is hoped always will be, the United States. You only have to look at the fact that Guam has always stood ready, willing and able to defend the United States during times of war and peace.

So you see, Mr. President, we have earned the right to your attention, not by just being an American Territory, but by proving beyond reproach that we are proud and loyal Americans.

^{a/} See appendix V to the present report.

As time goes by, however, we try to rationalize the actions of our own Government, but we are finding it increasingly difficult. Just recently, we read that the United States is willing to give the emerging Republic of Belau (Palau), \$US 200 million, and most probably a like amount to the Government of the Marshall Islands.

Our neighbours in Micronesia appear to get all they want by outright intimidation. If we tried the same thing as Palau, the Federated States of Micronesia, or the Marshall Islands Government, we would be accused of downright sedition, because we are supposed to be American citizens.

When we see American dollars being doled out around us in such a manner, we begin to wonder about the advantages of being American.

We are not asking for hand-outs. As a matter of fact, this is just what we don't want. One thing we are asking for is fewer federal constraints.

Presently, the United States National Park Service and Department of the Interior are telling our people that they can't have a boat harbour, for which they have been waiting 20 years, constructed in a certain area because it would interfere with the "War in the Pacific National Historical Park". Yet, despite the public's wishes, the Federal Government still objects.

I ask you, Mr. President, is this democracy in action, or just another example of how the Federal Government is trying to manipulate us?

In addition to fewer constraints, we would like help from the United States in reviewing and developing our economic potential, making us more self-sufficient and less financially dependent on the United States.

According to the Guam Fisheries Advisory Council, Guam could have a prosperous fishing industry, providing many job opportunities for our people. But, how can we develop this industry when the Jones Act hinders that kind of economic advancement?

An aquaculture industry could also be developed, as well as Guam's tourist industry. These are just a few examples of how Guam could become self-sufficient. But, we need your help.

We need fewer federal restrictions, more help in accurately assessing our economic potential, then help in making plans and making those plans a reality.

The Interagency Policy Review Task Force of the United States Territories was organized to study how the Territories can become more self-sufficient and can best develop economically. The people of Guam are grateful for that effort. However, it is our hope that this group is truly determined to help the Territories and is not just a front by the Federal Government to temporarily pacify the restless natives. We would hate to have this study turn out like many others, which, after being completed, are placed on a shelf to gather dust.

United States Government investments here would be just as much for the benefit of Washington as Guam. This is Washington's forward base - the Pacific's window to America.

If you don't want to help keep the window clean and attractive, let us have the authority to negotiate directly with our Asian neighbours for the necessary finances. Let us control our own immigration, customs laws and air and shipping routes.

We like being American citizens. If we have to continue as second-class citizens, however, then we should re-evaluate our position, as have our neighbours in Micronesia.

cc: Kurt Waldheim
Secretary-General
United Nations

Appendix VII

Statement submitted by Mr. Robert Underwood on behalf of the
PARA-PADA'* Coalition

...

Good afternoon to all of you. I am Robert Underwood, a member of PARA-PADA', a parent, a citizen, a voter and a native of Guam. If you will bear with me for the next few minutes, I would like to explain to you some of the past political developments in the islands which have placed the island in its present predicament.

Over 4,000 years ago, the first people came to these islands. They were a healthy, self-sufficient people who over a period of time developed a civilization and culture dependent upon a belief in the interdependence of man. These were the Chamorros. This proud group of people provide the basis for the cultural legacy of Guam and the indigenous language of the island which still survives despite attempts by colonizing Powers to eradicate its use.

Guam was the first Pacific island to be invaded by the West. Approximately 150 years after Fernando Magellan stopped here and allegedly discovered the island, the Spaniards decided to settle here in order to assure the safety of the Manila Galleon which travelled between the Philippines and Mexico and in order to Christianize our ancestors. At the hands of the invaders, approximately 90 per cent of the population was decimated either through disease, warfare or quite simply, by the refusal to live.

However, the people survived and despite the fact that there were many changes in the new colonial order, the people were undisputedly Chamorro. They borrowed from others, but always adapted rather than adopted. During the long colonial rule of the Spaniards, the people were neglected by Spain, but that system probably worked out better for the people. Government was conducted by Spaniards, but a modified democratic system was established whereby the people elected their leaders and made their desires known. Moreover, entry into the island by large numbers of non-natives never occurred. The island worked out of a colonial frame, but distance and the declining power of Spain kept the island isolated enough to continue a sense of peoplehood and self-identity. Economically, the island was self-sufficient and almost all needs were met locally. Physically, the island was probably one of the healthiest in the Pacific, the population having doubled from 1850 to 1900.

This outright form of colonial Government changed hands in 1898. During this highly imperialistic era, the United States of America obtained Wake, the Philippines, Samoa, Hawaii and Guam in two years. Guam was ceded to the United States, naturally without consultation with the people of the island, by the Treaty of Paris ending the Spanish-American War. It was by this document, written at a time when imperialism was not a discredited term, that the United States acquired and maintained that it had sovereignty over Guam, Puerto Rico and the Philippines. As of this date, the United States has finally recognized the sovereignty of the Philippines but still maintains (through the Constitution of the United States and the Treaty of Paris) that the United States Congress holds all political sovereignty over Guam and Puerto Rico.

* Peoples Alliance for Responsive Alternatives-Peoples Alliance for Dignified Alternatives.

It was also at this time that the Marianas was forcibly separated by the big Powers of the world. In reality, the people of the Marianas comprise one ethnic, cultural and linguistic group. The Northern Mariana Islands was sold to Germany, ended up in Japanese hands and were eventually obtained by the United States as part of the Trust Territory of the Pacific Islands. The nationhood of the Marianas was disrupted and the United States has unfortunately obtained the approval of the people for a "Commonwealth" agreement.

The United States Navy ruled Guam for the next 50 years. This was interrupted only by the Japanese occupation during the Second World War. During this period of Guam's past, the Navy ran the island like a naval station, treated the people as political inferiors, enforced opprobrious regulations and imposed a system of schooling characterized by its contempt for anything Chamorro and by its superpatriotic exercises. For two and a half generations, the people went through the superpatriotism of the military before the people were declared American citizens.

After the Second World War, the United States Congress passed the Organic Act. This Act turned the people into American citizens, organized a civilian Government and claimed United States sovereignty. The effect of this document was to deny the people of Guam the right to self-determination and the right to negotiate with the United States Government. United States citizens do not negotiate with "their" Government. However, because obtaining civilian Government was such a victory, no one ever really analysed the situation. By 1950, the United States had already constructed 21 separate military installations. In the year of the Organic Act, the United States had 40 per cent of the land and the military population outnumbered the natives. Every branch of the United States armed forces had an installation on Guam. It was also at this time that the Central Intelligence Agency (CIA) ran a training base for Nationalist Chinese troops on Saipan.

Since the Organic Act was an imposition on the people, it can be categorically rejected. The proposed constitution keeps the same subservient relationship of Guam to the United States. However, if we approve it, it will have the effect of securing a popular mandate. It is probably for this reason that you have been invited to Guam. The United Nations can observe the people of Guam vote away their sovereignty. Fortunately, the people of Guam will not fall into this trap of deceitful self-government.

Every aspect of our lives on Guam is under the control of the Federal Government; we cannot import goods from certain areas, we are subjected to United States immigration quotas, our television and radio are regulated by the Federal Communications Commission (FCC), and we are part of the United States for purposes of shipping and air treaty arrangements. The immigration question will become larger in the future. In the next 10 years, the natives of the island will be in the minority if the island continues to be under United States immigration laws. Any question of Chamorro rights to self-determination will be displaced of. Since we are subject to federal court decisions, we cannot restrict voting. This appears to be a deliberate plan on the part of the Federal Government to end the question of Guam's self-determination.

There is still no organized independence movement, although such murmurings have surfaced openly in recent times. There is sentiment and great attachment to American ideals. However, the longer they remain unfulfilled on Guam, the stronger the sentiment becomes to do something independent of Congressional action. The

plight of our people is that they are not first-class United States citizens. At one point, that was our desired goal. With continual neglect, our goal is fast becoming that of being masters of the Guamanian house.

The political questions which we face today are basically three:

- (a) Whether or not we should be first-class United States citizens;
- (b) Whether we should go in a different direction - perhaps free association or independence;
- (c) Whether or not we should become a state.

However, our predicament does not lie in determining these answers for ourselves. Our predicament lies in the fact that we must seek permission to address these issues. The United States Congress continues to maintain that it has final authority on these matters. In effect, we have to be allowed to have self-determination. The people of Guam are tired of this unfortunate condition. This is not a statement of anti-American sentiment - it is a plea for recognition that:

- (a) We are mature political beings who are tired of being patronized;
- (b) We should determine our own path openly and freely;
- (c) We have options;
- (d) We want true self-determination, not that which is permitted by federal officials.

To this end, we respectfully request the United Nations to address not only the question of political status for Guam, but also the specific policies of the United States Government which make a determination of political status difficult to develop. These include the question of voting rights on Guam, continued economic controls and immigration policies.

Appendix VIII

Memorandum submitted to the Mission on 6 August 1979 by Ms. Cecilia C. Bamba entitled "A brief overview of Guam's history under military Government"

Shortly after the Spanish-American War, Spanish rule ended on Guam. Under the terms of the Treaty of Paris, the United States of America secured from Spain a protectorate over Cuba and possession of the Philippines, Puerto Rico and Guam.

President William McKinley issued an Executive Order placing Guam under the control of the Department of the Navy. He appointed Navy Captain Richard P. Leary to be the first American Governor of Guam. Leary was the first of 43 governors, all appointed by United States Presidents and all military officers.

Although placed under "temporary" naval rule only until such time as the United States Congress would determine its legal status, naval rule continued (except during the Japanese occupation) until passage of the Organic Act in 1950. It was not that the Congress was slow to act; it did not act at all.

In his dual role, the naval governor was the supreme authority on the island. His actions could be checked only by the President and by his superiors in the Department of the Navy. Major matters of concern to him as governor were those of economics, agriculture, commerce, construction of buildings and roads, education, finance, public health, population, law and politics. As commandant, he was interested chiefly in the maintenance and development of the naval station. During the half-century of naval rule, these matters constantly occupied the attention of most of the naval governors.

Since the Americans knew almost nothing about the island, many expected to find it inhabited by savage South Sea islanders. They were, to say the least, surprised to find that the Guamanians were civilized, had a long established Spanish-Catholic tradition and many were already quite able to speak English.

Although the governors had been given supreme authority, the Congress had not acted and no guidelines had ever been forthcoming, leaving the naval Government to its own devices as to how to run the island. One thing was certain, however; the entire island was designated and run as a naval station. In a comparative sense, the Guamanians were not mistreated and the quality of life improved under military rule.

The major drawback for the Guamanians under military Government was the attitude, which prevails even today. In essence, the attitude can be defined as the overriding concern of both the military and the Federal Government to preserve Guam as a strategic defence base. The citizens were secondary in importance. It is this deeply entrenched attitude that has engendered not only frustration and resentment, but hurt and disappointment as well. The control of the people was felt to be essential to the control of the island. So although governed with America's basic humanitarianism, the Guamanians were denied self-rule and United States citizenship. From that standpoint, they were themselves American possessions.

Although the Guamanians accepted and endured this with considerable patience, they were intensely angered by an early edict of Governor Leary. Apparently heavily influenced by a report of a naval lieutenant, Governor Leary declared to the Department of the Navy his intention to deport the Spanish priests from Guam. The report upon which he based his decision said in part:

"First of all, send the Spanish priests to Spain or to one of the Spanish islands and the native priest to one of the other islands. ... These priests are the moral lepers of the place and are a great drawback and detriment.

"... to permit the priests to stay would be subversive of good government and prosperity, injurious to the interests of the community and incompatible with the moral teachings and principles of a civilized society." a/

So in one grandiose pronouncement, 200 years of Spanish-Catholic tradition was meant to be swept away, as all but one priest, Padre Jose Palomo, were deported from the island.

The Guamanians, who were initially predisposed to trust the Americans, were stunned by this arbitrary action. Their priests were loved and honoured and had contributed enormously to the morality and civility of the Guamanians. The people felt a wrench akin to having their limbs torn off as the ships departed. It was the first insensitive action taken by the military command, but surely not the last. Thus began our American history, where what was best for us became another's decision, not our own.

That action also demonstrated that, without definition by the United States Congress as to how Guam was to be governed, the Guamanians were totally at the mercy of the disposition and character of each succeeding governor. With some, even trivial whims became law, such as one law forbidding whistling, and some not so trivial laws, such as the edict that no Guamanian was permitted to speak his own language of Chamorro. At the same time, it must be acknowledged that many of the governors proved to be excellent and were sincerely concerned with the needs of the Guamanians.

One such governor was Commander Willis J. Bradley, Jr., who served from 1926 to June 1929. He was a strong and effective proponent of civil rights for the Guamanians. Shortly after taking command, he communicated the following to the Federal Government:

"The present status of Guamanians is unsatisfactory - even the term 'citizen of Guam' is almost meaningless ... to afford them citizenship would be a just and generous act."

Governor Bradley then took it upon himself to define Guamanian citizenship. He also proclaimed a bill of rights, modeled after the first 10 amendments to the United States Constitution. Predictably, the bill was not approved by Washington

a/ Henry P. Beers, American Naval Occupation and Government of Guam, 1898-1902 (Administrative Reference Service Report No. 6, Office of Records Administration, Department of the Navy), Washington, D.C., 1914.

officials and hence never took effect. Yet, when the law codes were revised in 1933, many of his provisions were incorporated.

Finding that the Guam Congress established in 1917 by Governor Roy C. Smith had lost whatever vestiges of value it had, he abolished it and established a new congress. The first congress was only an advisory council composed of 34 island leaders, including village commissioners, deputy commissioners and other prominent men of the various districts. Yet all were appointed by the governor, held office at his pleasure and served without pay.

Guamanians were enthusiastic and hopeful about the first general election they had ever had; the belief was widespread that the Second Guam Congress would have bona fide lawmaking powers. This proved untrue and, by 1933, the number of registered voters fell by half. Captain Edmund S. Root, Governor Bradley's replacement, disagreed totally with Bradley's "scheme" of having the village commissioners elected by the people. In his annual report of 1933, he stated,

"... Commissioners elected by the people has not proven successful. The Commissioners are basically employees of the Government and are the agencies through which the Governor is able to demand certain things of the people of the districts. Sometimes these things are not in accordance with the personal desires of those concerned and as long as the Commissioners were elected, they were inclined to act with the wishes of the people rather than the desires of the Governor."

As is very apparent, Root felt no compunction whatever to soften or veil his patently anti-democratic demands.

In 1936, Governor James T. Alexander learned that a resolution had been unanimously passed by both houses of Guam's Congress, petitioning the United States to grant United States citizenship to Guam's people. They had also requested that \$US 5,000 be allocated from naval government funds to send two congressional delegates to Washington where they would submit the petition to the United States Congress.

The Governor expressed sympathy and understanding of the "ambition" of the Guamanians to acquire citizenship but declined the request, stating that "making the funds available for the purpose indicated would be a breach of faith on the part of the Naval Government with the "Federal Government".

The delegates did go to Washington, having raised an incredible \$US 6,000 from penny and nickel donations from the Guamanian community. As a result of their visit to President Franklin D. Roosevelt, Senators Gibson of Vermont and Millard Tydings of Maryland introduced Senate Bill No. 1450. The bill was approved by the Senate but failed to pass in the House, primarily because of the strident opposition of the Department of the Navy.

In part of his testimony, Secretary of the Navy Claude A. Swanson stated:

"It is believed that the change provided for in the proposed legislation would aggravate the danger to peaceful international relations. As attested by the fact that they are not self-supporting and require not only federal economic assistance but careful training and supervision from the paternal island Government, there is every indication that these people have not yet

reached a state of development commensurate with the personal independence, obligations, and responsibilities of United States citizenship. It is believed that such a change of status at this time would be most harmful to the native people. ..."

It took another 14 years before the longed-for Organic Act was passed.

Despite this, when Guam was invaded by the Japanese military forces in 1941, the loyalty of the Guamanians towards the United States could not be bought, bribed or beaten away. And many were beaten, hideously tortured or beheaded.

At the conclusion of the Second World War, the liberated Guamanians were joyous; they had never doubted that the Americans would return. Their gratitude to their liberators was so overwhelming, they willingly let their property be "condemned" and purchased for a pittance by the United States military. Thus, a full two thirds of the islands was gently usurped. Their joy was short-lived, however; although the Guamanians felt that surely now they would become equal partners with the Americans, the military and federal attitude had not changed at all.

The mixture of frustration, resentment and disappointment was rekindled and will endure until such time as Guamanians are afforded the dignity of making decisions that have a direct impact upon their lives and the restrictions limiting economic growth are lifted. Guamanians are intensely proud of being Americans but want to be fully regarded as such, not as incompetent children in some remote, obscure backwater. America has unquestionably been generous with financial aid; what Guamanians yearn for, however, is America's generosity of spirit. After three quarters of a century of colonial rule, it is untenable to be denied any longer the freedom of all American citizens.

Appendix II

Guam statistical indicators: 1971-1978

	1971	1972	1973	1974	1975	1976	1977	1978
Population estimates <u>a/</u>	89 042	91 407	93 055	...	105 700	...	107 300	109 000
Employment	26 753	30 365	37 779	38 474 <u>b/</u>	34 938 <u>b/</u>	30 060 <u>b/</u>	30 816 <u>b/</u>	...
Personal income (\$US millions)	166.2	209.2	274.0	298.6	299.1 <u>c/</u>	...	...	...
Full-time enrolment - academic year								
Public school	26 329	26 922	27 331	28 164	28 206	27 272	27 380	28 529
Private school	5 404	4 817	4 820	5 113	4 592	4 928	4 785	5 223
University (full time)	1 777	2 051	2 098	2 111	2 210	1 999	1 923	1 657
Total	33 510	33 790	34 249	35 408	35 008	34 199	34 088	35 409
Finance (\$US millions) <u>d/</u>								
Bank deposits <u>e/</u>	81.3	148.0	271.6	349.0	537.6	663.3	298.8	476.1
Bank loans	89.2	133.8	204.1	263.2	265.2	264.5	235.2	250.4
Deposits, all financial institutions <u>e/</u>	87.4	154.5	279.3	358.2	555.1	687.7	343.2	529.4
Loans, all financial institutions	96.5	144.0	221.2	295.3	317.1	317.3	291.4	330.3
Foreign trade - fiscal year								
Exports (\$US millions)	10.5	16.4	10.9	20.0	28.5	25.2	30.7 <u>e/</u>	34.2 <u>e/</u>
Imports (\$US millions)	115.0	166.8	211.1	259.1	266.2	267.6	269.0 <u>e/</u>	272.0 <u>e/</u>
Surface cargo (thousand metric tons)	730.7	750.8	899.4	872.0	691.6	701.0	847.7	831.3
Air cargo (thousand kilograms)	5 445	7 656	8 725	10 583	11 034	10 145	10 774	8 787
Tourist industry (thousands) - calendar year								
Visitor arrivals	119.2	185.4	241.1	260.6	239.7	201.3	240.5	232.0
Tourist arrivals	84.9	139.8	187.5	233.9	128.2 <u>f/</u>	106.0	149.2	148.5
Construction (\$US millions) - calendar year								
Gross receipts of contractors	69.5 <u>g/</u>	86.3 <u>g/</u>	127.8	108.9	92.8	64.0	74.8 <u>g/</u>	111.2 <u>g/</u>
Value of new building permits	43.4	92.4	66.4 <u>g/</u>	116.7 <u>g/</u>	40.8	62.7	51.2	49.5
Gross business income (\$US millions) - calendar year <u>h/</u>								
Retail	107.9	162.4	180.3	200.6	189.0	221.9	(288.8 <u>i/</u>)	259.2
Wholesale	40.2	46.5	48.6	43.1	46.9	46.5		54.1
Manufacturing	39.8	41.4	63.0	113.4	139.4	152.2	150.5	187.5
Services	41.2	51.8	64.9	73.4	68.9	70.5	80.2	85.7
Agriculture <u>j/</u> . . . . .	...	...	0.5	0.7	1.2	1.2	1.5	2.9
Transportation	0.1	0.2	11.0	15.2	13.6	14.3	15.2	16.7
Insurance, real estate, finance	24.6	34.6	66.7	66.7	58.1	64.0	65.6	69.2
Total, all sectors <u>h/</u>	323.4	423.1	562.9	622.0	609.9	634.5	675.9	786.4
Government - fiscal year								
Operating revenue (\$US millions)	59.6	65.4	86.0	109.5	117.3	100.2	95.1	104.6
Operating expenditures (\$US millions)	59.9	65.4	74.9	93.4	119.2	108.7	108.2	120.4
Utilities - fiscal year								
Electrical consumption (million kWh)	259.4	309.3	365.5	425.2	451.8	436.1	419.3	461.4
Water consumption (million litres)	10 921	11 333	12 571	13 608	15 319	15 876	15 853	15 652
Telephone usage (units in use excluding extensions)	7 745	8 836	11 180	11 795	15 028	13 691	10 919	12 332

Source: Economic Research Center, Department of Commerce, Government of Guam.

a/ Including military.

b/ As of the month of March.

c/ Estimate.

d/ For 1971, data are as of 31 December. For following years, data are as of 30 June.

e/ Includes off-shore FCBs.

f/ January-August 1975.

g/ Fiscal year.

h/ 1971 and 1972 data are fiscal year. 1977 and 1978 data are estimates.

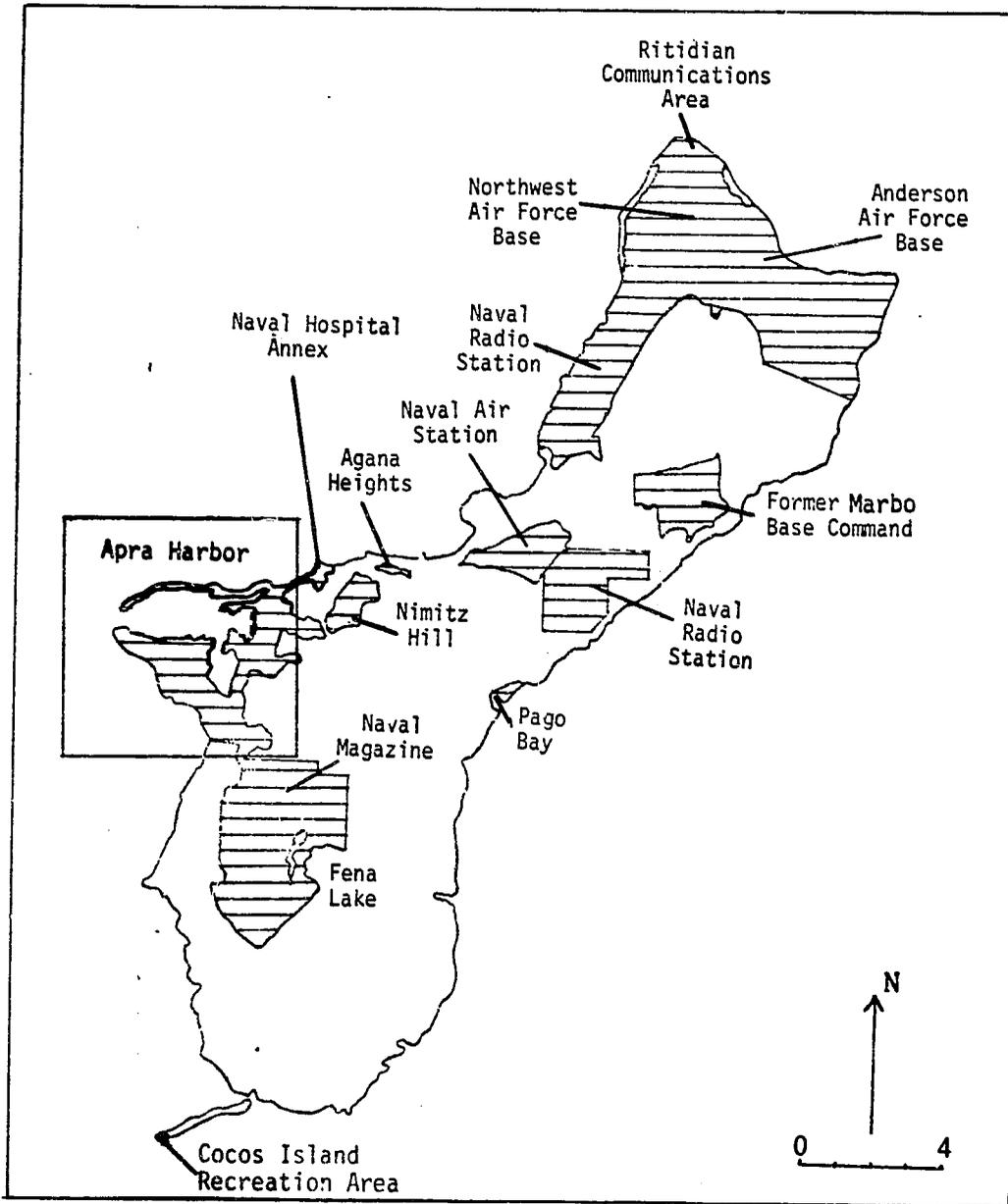
i/ Wholesale and retail combined.

j/ Prior to 1973, gross receipts did not include agriculture.

k/ Includes gross business income for contracting.

Appendix X

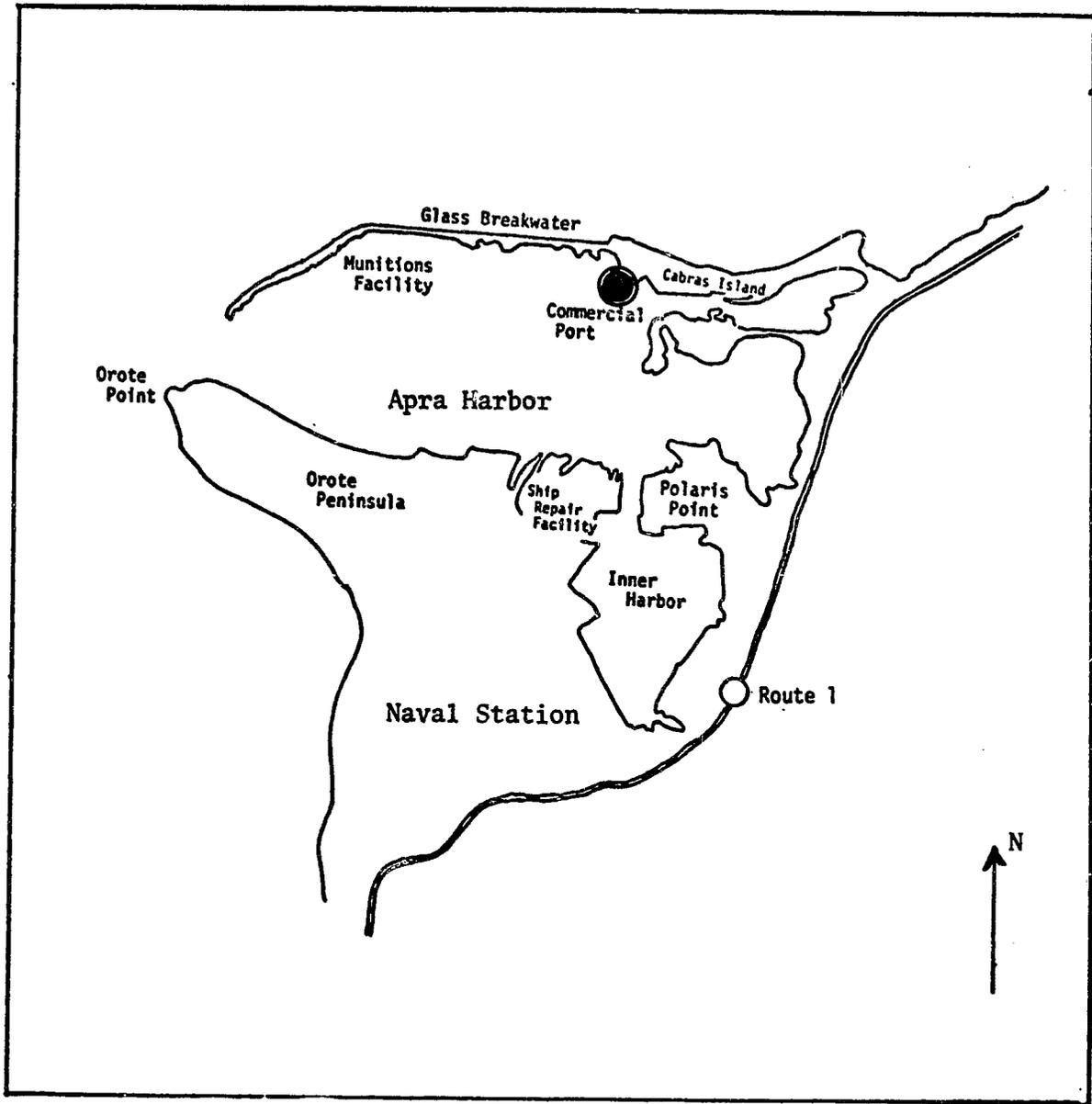
Distribution of major military land holdings on Guam



Source: Economic Adjustment Program for the Territory of Guam, prepared by the Office of Economic Adjustment, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), the Pentagon (Washington, D.C., July 1977).

Appendix XI

Apra Harbor, Guam



Source: Economic Adjustment Program for the Territory of Guam, prepared by the Office of Economic Adjustment, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), the Pentagon (Washington, D.C., July 1977).

CHAPTER XXVIII

FALKLAND ISLANDS (MALVINAS)

A. Consideration by the Special Committee

1. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 1161st meeting, on 16 August 1979.
2. In its consideration of the item, the Special Committee took into account the provisions of relevant resolutions of the General Assembly, including in particular resolution 33/44 of 13 December 1978 on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. By paragraph 12 of that resolution, the Assembly requested the Special Committee "to continue to seek suitable means for the immediate and full implementation of General Assembly resolution 1514 (XV) in all Territories which have not yet attained independence and, in particular: ... to formulate specific proposals for the elimination of the remaining manifestations of colonialism and to report thereon to the General Assembly at its thirty-fourth session". The Special Committee also took into account General Assembly decision 33/413 of 13 December 1978 concerning three Territories, including the Falkland Islands (Malvinas).
3. During its consideration of the item, the Special Committee had before it a working paper prepared by the Secretariat (see annex to the present chapter) containing information on developments concerning the Territory.

B. Decision of the Special Committee

4. At its 1161st meeting, on 16 August 1979, following a statement by the Chairman (A/AC.109/PV.1161), the Special Committee decided, without objection, to give consideration to the question of the Falkland Islands (Malvinas) at its next session, subject to any directives which the General Assembly might give in that connexion at its thirty-fourth session and, in order to facilitate consideration of the item by the Fourth Committee, to authorize its Rapporteur to transmit the relevant documentation directly to the General Assembly.

* Previously issued as part of A/34/23/Add.7.

ANNEX*

Working paper prepared by the Secretariat

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* Previously issued under the symbol A/AC.109/L.1339.

FALKLAND ISLANDS (MALVINAS) a/

1. GENERAL

1. The Falkland Islands (Malvinas) lie in the South Atlantic, some 772 kilometres north-east of Cape Horn. They comprise 200 islands and cover a total area of 11,961 square kilometres. There are two large islands, East Falkland and West Falkland. Apart from a number of small islands, the Dependencies consist of South Georgia, 1,287 kilometres east-south-east of the Falkland Islands (Malvinas), and the uninhabited South Sandwich Islands, some 756 kilometres south-east of South Georgia.

2. At the last census, held in 1972, the population of the Territory, excluding the Dependencies, numbered 1,957, almost all of whom were of European descent, mainly of British origin. Of this total, 1,079 lived in Stanley, the capital. The estimated population in mid-1976 was 2,000.

2. CONSTITUTIONAL AND POLITICAL DEVELOPMENTS

A. Constitution

3. An outline of the constitutional arrangements for the Territory, introduced in 1949 and amended in 1955 and 1964, appears in an earlier report of the Special Committee: b/ Those arrangements were further modified by the Falkland Islands (Legislative Council) (Amendment) Order 1977. c/ Briefly, the governmental structure consists of: (a) the Governor appointed by the Queen (currently Mr. James Parker); (b) an Executive Council consisting of two ex officio members (the Chief Secretary and the Financial Secretary), two unofficial members appointed by the Governor and two elected members of the Legislative Council, elected by the members of that Council; (c) a Legislative Council consisting of the Governor, who presides, two ex officio members (the Chief Secretary and the Financial Secretary) and six members elected on the basis of universal adult suffrage; and (d) a Court of Appeals set up in July 1965 to hear and determine appeals from the courts of the Territory.

4. Elections under the new constitutional arrangements were held in the Territory in October 1977, and the new Legislative Council was sworn in on 21 November 1977. There remains one nominated member of the Legislative Council owing to the fact that one of the elected seats was not contested.

a/ The information contained in this paper has been derived from published reports and from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 e of the Charter of the United Nations on 26 October 1978 for the years 1977, 1978 and 1979.

b/ Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 23 (A/8023/Rev.1), vol. IV, chap. XIX, annex, paras. 4-7.

c/ Ibid., Thirty-third Session, Supplement No. 23 (A/33/23/Rev.1), vol. IV, chap. XXVIII, annex I, paras. 4-7.

5. In a speech to the Legislative Council in June 1978, the Governor referred to the newly instituted constitutional and legislative arrangements, stating:

"When I spoke at the opening of this session, with a Council elected under the revised Constitution, I suggested that we might perhaps consider from time to time how these new arrangements were working out. I think they are not doing too badly, but perhaps some readjustment might be possible in one or two respects, and I shall be interested to hear from Honourable Members whatever views they have on the matter."

B. Public service

6. At the end of 1977, there were 125 persons in the public service, of whom 45 were expatriates. In his speech of June 1978 (see above), the Governor stated that four local officers were studying in the United Kingdom and would be joined by a fifth in September. The Government's policy was to give every opportunity to all members of the public service to enhance their existing capabilities through further training and eventually to reduce the need to recruit officers from abroad. He went on to say that proposals would be submitted to the Legislative Council for expanding the training scheme for nurses and introducing in-service secretarial and clerical training in the public service for school leavers. Meanwhile, every effort would be made to encourage training overseas, not only in academic institutions but through individually arranged working internships.

C. Relations between the Governments of Argentina and the United Kingdom

7. Information concerning the relations between the Governments of Argentina and the United Kingdom on the question of the Falkland Islands (Malvinas) prior to March 1978, is contained in previous reports of the Special Committee. d/ It will be recalled that representatives of the two Governments held a meeting on the question at New York from 13 to 15 December 1977. Both sides recognized that there was a wide range of issues involved which would require detailed study. Among other things, they agreed to establish, at an official level, two parallel working groups on political relations, including sovereignty, and on economic co-operation to pursue these studies in depth and to report back to the heads of their respective delegations. Soon after that meeting, Mr. Edward Rowlands, then Minister of State at the United Kingdom Foreign and Commonwealth Office, flew to Rio de Janeiro to meet with representatives of the territorial Legislative Council, including the Governor.

8. In his recent speech to the Council (see para. 5 above), the Governor recalled that at the meeting with Mr. Rowlands, a valuable and frank exchange of

d/ For the most recent, see Official Records of the General Assembly, Thirty-second Session, Supplement No. 23 (A/32/23/Rev.1), vol. IV, chap. XXVIII, annex, paras. 9-31; and ibid., Thirty-third Session, Supplement No. 23 (A/33/23/Rev.1), vol. IV, chap. XXVIII, annex, paras. 13-16.

views had taken place. Since then, territorial affairs had been discussed several times and at considerable length, in both houses of the United Kingdom Parliament. Leading members of both the Government and the Opposition had made clear statements on policy relating to the major issues concerning the Territory.

9. The Governor also said that the people of the Territory would wish negotiations on the question of the Falkland Islands (Malvinas) to bear fruit so that they could continue their way of life in peace and mutually beneficial development. He was sure, he said, that "we are sincerely appreciative of the help we are given by Argentina in hospital and medical care, in the much improved external air service, in fuel and other supplies".

10. The Governor pointed out, however, that "any extension into a wider co-operation will only be possible on the basis of an acceptance of the principle that the wishes of the Islanders as regards their future must be fully recognized as the main concern", and that "the Islanders are entitled, as are all other such national communities, to the internationally accepted right of self-determination". Finally, he noted with satisfaction that "those sentiments were so fully endorsed, on all sides, in both houses of the United Kingdom Parliament, where our final safeguard lies".

11. By its decision 33/413 of 13 December 1978, the General Assembly, on the recommendation of the Fourth Committee, decided to defer until its thirty-fourth session consideration of the question of the Falkland Islands (Malvinas) and requested the Special Committee to keep the situation in the Territory under review.

12. In September 1978, Mr. David Owen, then United Kingdom Secretary of State for Foreign and Commonwealth Affairs, and Vice-Admiral Oscar A. Montes, then Minister for External Relations and Worship of Argentina, held discussions concerning the next round of negotiations on the question.

13. In identical letters dated 19 January 1979, addressed to the Secretary-General (A/34/65 and A/34/66), the permanent representatives of Argentina and the United Kingdom to the United Nations stated that delegations of the two countries, headed respectively by Captain D. Gualter Oscar Allara, then Under-Secretary for External Relations and Worship of Argentina, and Mr. Rowlands, had met at Geneva from 18 to 20 December 1978 and had decided to meet again in early 1979. According to the communiqué annexed to the letters, the discussions between the two delegations were conducted in a positive spirit, reviewed all matters within the scope of the negotiations and resulted in an agreement in principle on the framework for a system of co-operation in scientific research activities in the Territory's Dependencies.

14. In early January 1979, Mr. Rowlands met with a delegation of Island councillors and the Governor at Rio de Janeiro to inform them of the progress of the negotiations.

15. On 7 March 1979, it was reported in La Prensa (Buenos Aires) that Mr. Angel María Oliveri López, Director-General of Antarctica and Malvinas, Argentine Ministry of External Relations and Worship, and Mr. George Hall, Under-Secretary of State at the United Kingdom Foreign and Commonwealth Office, would head the delegations of their respective Governments to the meeting scheduled to be held in New York later that month.

16. In identical letters dated 28 June 1979 (A/34/342 and A/34/343), the Permanent Representative of Argentina and the Chargé d'Affaires a.i. of the Permanent Mission of the United Kingdom to the United Nations informed the Secretary-General that, from 21 to 23 March 1979, representatives of their Governments had held in New York another round of negotiations on the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands, and that the meeting had included "a wide exchange of views as well as consideration of the main questions embodied in the negotiations". They also indicated that "the date, place and level of the next meeting will be agreed upon through diplomatic channels".

17. On 7 June 1979, the La Prensa also reported that later in the month, a further meeting was expected to take place in London, between Commodore Carlos Cavándoli, Under-Secretary for External Relations and Worship of Argentina and Mr. Nicholas Ridley, Minister of State at the United Kingdom Foreign and Commonwealth Office. The topics for discussion would include an analysis of the state of negotiations on the Falkland Islands (Malvinas), the establishment of the basis for a formal meeting to be held at Buenos Aires in July 1979 following Mr. Ridley's visit to the Territory, and the resumption of bilateral relations at the ambassadorial level. On 26 and 27 July, after he had paid a visit to the Territory, Mr. Ridley held discussions at Buenos Aires with Brigadier Carlos Pastor, the Minister for External Relations and Worship, and Commodore Cavándoli. It was then announced that both Governments had agreed on the need to restore relations at the ambassadorial level.

3. ECONOMIC CONDITIONS

A. Implementation of the recommendations of the Shackleton report e/

18. Details of the report on the Territory prepared by Lord Shackleton, and information on the implementation of the recommendations contained therein prior to July 1978 are given in the previous report of the Special Committee. f/ Additional information on that subject is set out below.

19. On 16 January 1979, in reply to a question in the United Kingdom House of Lords, Lord Goronwy-Roberts, Minister of State for Foreign and Commonwealth Affairs, made the following statement:

"My Lords, considerable progress has been made in implementing the proposals contained in the Shackleton report which involve assistance from the aid programme. Construction has begun of both the Stanley-Darwin Road and the Stanley school hostel, a new aircraft for the air services has been ordered, as have an ambulance and X-ray equipment for the medical service. A road construction unit has been set up as an important part of a considerable strengthening of the Public Works Department. The Grasslands Trials Unit has been given increasing support. Finally, the new development officer and

e/ Economic Survey of the Falkland Islands (London, HM Stationery Office, 1976).

f/ Official Records of the General Assembly, Thirty-third Session, Supplement No. 23 (A/33/23/Rev.1), vol. IV, chap. XXVIII, annex, paras. 17-21.

a fiscal adviser are now in post and many advisory visits have been made to the Falklands, some in addition to those recommended in the noble Lord's report." g/

20. Lord Goronwy-Roberts was also asked what consideration had been given by the United Kingdom Government to the proposal for a survey on the fishing potential in the seas around the Territory and particularly to the survey proposed by the South Atlantic Fisheries Committee. In reply, he said that he had no immediate information on that extremely important point, adding that "we are in discussion with the Argentinian Government on the general possibility of economic co-operation in the area" which might well come within the ambit of those discussions (see below).

B. General

21. The Territory's economy remains overwhelmingly dependent on sheep farming for wool production. Statistics furnished by the administering Power show that in 1976/77, there were 638,116 sheep in the Territory (644,819 in 1975/76 and 644,014 in 1974/75) distributed as follows: East Falkland, 366,808; West Falkland, 208,165; and other islands, 63,143.

22. The grasslands are generally poor owing to difficult climatic and soil conditions, and as a result the yield per hectare is restricted. The Grasslands Trials Unit (GTU), established in 1975 and financed by the United Kingdom, is conducting research into the improvement of pastures and related aspects of sheep farming. In his speech of June 1978 (see para. 5 above), the Governor stated that the work of GTU had recently been reviewed by three experts from the United Kingdom. As a result, some technical alterations and changes of emphasis would be made in the programme. Nevertheless, the work of the Unit had been commended, and the United Kingdom Ministry of Overseas Development had agreed to extend its commitment to underwriting the cost of this project, that lay at the very heart of the economy (see also para. 19 above).

23. According to the Governor, local farm management was at a high level of efficiency. Nevertheless, he believed that the work of GTU could add to that efficiency, although it would be a slow process. He therefore stressed that every encouragement should be given to the farming community.

24. With regard to the future of the wool market, on which the economy depended so heavily, the Governor pointed out that, at present, prospects were not unfavourable; production costs, however, continued to move upwards while the world market price tended to remain static. (In 1976, the last year for which figures are available, exports of wool were valued at £1.8 million.) h/ He hoped that the gap between the two would be kept as wide as possible.

25. The Falkland Islands Company (FIC), registered in the United Kingdom in 1851, is the major contributor to the economy, and the development of the Territory has been closely tied to the growth of the company. FIC, which is the largest producer of wool in the islands (owning 287,307 out of the total 638,116 sheep in 1976/77), also controls much of the local banking, commerce and shipping.

g/ United Kingdom, Parliamentary Debates, (Hansard), House of Lords, Official Report (London; HM Stationery Office, 1979), 16 January 1979, cols. 843-846.

h/ The local currency is the pound sterling.

26. In November 1977, FIC offered to set up a pilot project in small-farm management on its farm at Green Patch, East Falkland, taking into account the relevant recommendations contained in the Shackleton report. In early 1979, the territorial Government arranged with FIC for the purchase of the farm and decided to make the prospectus available to members of the public. According to the prospectus, which was published by The Falkland Islands Times, a local newspaper, in June 1979, the Government had agreed to buy the farm, together with all buildings, livestock, plant and materials, as part of a long-term development plan. The object was to subdivide the land, buildings and livestock (except the central buildings and facilities and the settlement paddocks) into six units, which would be offered for sale to persons resident in the Territory. The central buildings and facilities (including shearing sheds, wool press, etc.) would be maintained by the Government and made available to the unit purchasers on a rental basis for a period of five years, after which the Government would reserve the right to dispose of them. Should the Government decide to take such action, unit owners would be given priority of purchase. The Government expected to complete purchase of the farm on 2 April 1980. On that date, the successful applicants would be legally entitled to take possession of their respective units.

27. In early October 1978, it was reported that FIC and Geochemical Services (Holdings) Ltd. had jointly established the Transocean Construction and Trading, Ltd., which was later awarded the contract for the construction of the new school hostel in Stanley (see also paras. 34 and 42 below). FIC also expressed an interest in the establishment of a locally based construction company. Other objectives of FIC are: (a) to develop local skills; (b) to enable islanders to participate in the joint venture referred to above; (c) to ensure that the financial success of the new venture will benefit the local community by direct contribution through taxation; and (d) to develop methods of construction particularly suited to the Territory's climatic and geological conditions.

28. As previously reported the Taiyo Fishing Company of Japan was conducting research into the Territory's fishing resources, a United Kingdom company was exploring the possibility of exploiting the stocks of king crab, and several countries were interested in exploiting krill. There is no additional information concerning the development of potentially exploitable marine sources (see also para. 20 above).

29. In December 1977, Mr. Julian Fitter, an expert on tourism, visited the Territory and subsequently submitted a report on the development of an organized tourist industry. In April 1979, it was reported that, on the basis of his findings, the territorial Government had allocated £25,000 to enable him to continue his work.

30. In his report, Mr. Fitter stated that the main objectives of such an industry would be to provide tourist facilities, improve interisland communications and provide an additional link with South America. The proposed scheme was based on the purchase or charter of a vessel capable of carrying up to 36 passengers, with a cargo capacity of approximately 5,000 cubic feet. During the summer (October-March) season the vessel would follow a regular weekly tourist schedule and would also offer freight facilities to Camp (the countryside other than Stanley, the capital), while during the winter season, it would operate an interisland service and make four trips to South America.

31. Mr. Fitter hoped to raise locally the bulk of the initial capital required (estimated at between £200,000 and £300,000) and planned to register the company in the Territory. He stressed that the scheme would not compete with the Falkland Islands Government Air Service (FIGAS) or the interisland vessel, M. V. Monsunen, but would complement their service while at the same time providing employment opportunities and additional transport facilities.

32. There are indications that oil deposits might exist in the Territory and its off-shore areas. In July 1978, the United Kingdom Government reported that two private companies had completed seismic surveys in the waters surrounding the islands. The reports of the two companies are not yet available.

33. As noted above, the Territory specializes in the production of wool for export and depends heavily on imported goods for the satisfaction of local requirements. Complete trade statistics for 1977 are not yet available. In past years, the United Kingdom has absorbed most of the Territory's exports and provided most of its imports. Steps have been taken recently to increase trade relations between the Territory and the Argentine mainland.

34. According to the approved budget estimates for 1978/79, recurrent revenue would amount to £1.8 million (compared with the revised 1977/78 figure of £1.6 million), and recurrent expenditure would total £118 million (compared with the revised 1977/78 figure of £1.9 million). The principal items of revenue are customs duties, internal revenue, posts and telecommunications and municipal services which, in 1978/79, were estimated at £1.3 million. Of the total estimated expenditure for 1978/79, public health accounted for £238,620; public works for £203,814; education for £199,119; and posts and telecommunications for £142,364. Capital expenditure, largely financed by the United Kingdom, was expected to decrease from £1.9 million in 1977/78 (revised estimate) to £1.6 million in 1978/79 (estimate). Of the latter sum, £400,000 would be devoted to school hostels (including educational facilities); £400,000 to major roads; and £290,000 to Britton-Norman Islander aircraft and a hangar.

35. In his recent speech to the Legislative Council (see para. 5 above), the Governor drew particular attention to the construction of an all-weather road from Stanley to Darwin, which would be the first stage in a road development programme. He announced that the United Kingdom Ministry of Overseas Development had recently agreed to make grants totalling £870,000 towards the construction cost of the road over a period of three years. To match this grant, the territorial Government had agreed to make its own contribution of a maximum of £120,000 over the same period. Following the agreement, certain preparatory steps were being taken, with the assistance of experts from the United Kingdom, and a new, highly qualified director of public works was expected to arrive in the Territory shortly, after which construction of the road in question would be started (see also para. 19 above). He stressed that the programme should gradually be extended as far as practicable throughout the Territory.

36. The Governor pointed out that such a road was of little immediate encouragement to people living on West Falkland. The Government was therefore all the more determined to press forward with the acquisition of a Britton-Norman Islander aircraft, ancillary equipment and a hangar for use by FIGAS. It was seeking financial aid from the Ministry of Overseas Development to meet the high cost of this project.

37. In his report, Lord Shackleton suggested three measures regarded as fundamental to any major development programme for the Falkland Islands (Malvinas). Among these was the extension of the runway of the Territory's airport to handle large aircraft, requiring an additional investment of some £5.5 million on the part of the United Kingdom Government. On 27 April 1979, The Guardian (Manchester) reported that, according to an official announcement, the Territory's new airport, built with £6 million of United Kingdom aid, was scheduled to open on 1 May. The Falkland Islands Office in London i/ had pointed out that the airport runway, measuring 1,253 metres, could take only short and medium haul aircraft such as the Fokker Friendship. The islanders therefore depended on the airport at Comodoro Rivadavia in southern Argentina as the only available staging post for reaching the outside world.

4. SOCIAL CONDITIONS

38. During the period under review, there was no significant change in the labour situation in the Territory. As noted in the present paper, the territorial Government, with assistance from the United Kingdom Government, has taken measures to implement a number of the recommendations contained in the Shackleton report, with the aim of realizing one of its basic objectives, namely, to counteract the trend of emigration.

39. The principal medical institution maintained by the territorial Government is a general hospital with 27 beds at Stanley, which provides medical, surgical, obstetric and geriatric care. The Medical Department employs one senior medical officer, two medical officers and other staff. The Government has recently acquired an ambulance and X-ray equipment for the medical service (see also para. 19 above). In his speech of June 1978, the Governor stated that a plan to strengthen the Medical Department, part of which would be aimed at expanding the training scheme for nurses (see also para. 6 above), was to be presented to the Legislative Council for consideration.

5. EDUCATIONAL CONDITIONS

40. In 1977, there were 319 pupils attending 11 government schools, staffed by 30 teachers, of whom 19 were certificated. Of these schools, two were at Stanley, providing secondary education: the rest were, in principle, all primary schools. A total of 25 children of secondary school age were being educated in Argentina, the United Kingdom and Uruguay. The Argentine Government provides an unlimited number of scholarships for secondary education to students from the Territory and two teachers of Spanish for the schools at Stanley.

i/ The Falkland Islands Office (FIO) in London is the executive secretariat for the unofficial United Kingdom Falkland Islands Committee (UKFIC), the Falkland Islands Research and Development Association (FIRADA), the South Atlantic Fisheries Committee (SAFC) and the Friends of the Falklands. UKFIC deals with human rights and the sovereignty of the Territory. FIRADA is a non-profit-making organization, financed by both corporate and individual subscriptions. It represents the funds for the running of FIO. SAFC promotes fisheries development in the South Atlantic (see also para. 20 above), and is financed separately from FIRADA. The Friends of the Falklands are people who subscribe to FIO as a whole. Sallingbury, Ltd., a business consultancy firm, is employed by FIO to act on the latter's behalf in parliamentary and public relations matters.

41. According to the Governor, the total number of examinations taken by local students at the level of the General Certificate of Education increased from 16 in June 1977 to 47 in June 1978. It was reported in October 1978 that the territorial Government had decided to abolish the overseas scholarships, because of the existence at Stanley of suitable facilities for academic advancement, and also because of the rising cost of each scholarship. The Government announced, however, that existing scholarships would not be affected. Subsequently, in April 1979, it was also decided to discontinue the grant of overseas education allowances, although present beneficiaries would still receive their allowances. This decision was made in accordance with the established policy of concentrating all available resources on the provision of facilities for secondary education within the Territory itself rather than providing for alternative facilities abroad.

42. The Governor said in his recent speech to the Legislative Council that the new Stanley school hostel project (see also para. 34 above) had not moved along as fast as he would have wished, but that the final contractual arrangements for its design and construction were being prepared. The work was now scheduled for completion around the spring of 1979.

CHAPTER XXIX*

BELIZE

A. Consideration by the Special Committee

1. The Special Committee considered the question of Belize at its 1161st meeting, on 16 August 1979.
2. In its consideration of the item, the Special Committee took into account the provisions of the relevant General Assembly resolutions, including in particular resolution 33/44 of 13 December 1978 on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. By paragraph 12 of that resolution, the Assembly requested the Special Committee "to continue to seek suitable means for the immediate and full implementation of General Assembly resolution 1514 (XV) in all Territories which have not yet attained independence and, in particular: to formulate specific proposals for the elimination of the remaining manifestations of colonialism and to report thereon to the General Assembly at its thirty-fourth session". The Committee also took into account General Assembly resolution 33/36 of 13 December 1978 concerning Belize, by paragraph 8 of which the Assembly requested the Special Committee "to remain seized of the question and to assist the people of Belize in the exercise of their inalienable rights".
3. During its consideration of the item, the Special Committee had before it a working paper prepared by the Secretariat (see annex to the present chapter) containing information on developments concerning the Territory.

B. Decision of the Special Committee

4. At its 1161st meeting, on 16 August 1979, following a statement by the Chairman (A/AC.109/PV.1161), the Special Committee decided, without objection, to give consideration to the question of Belize at its next session, subject to any directives which the General Assembly might give in that connexion at its thirty-fourth session and, in order to facilitate consideration of the item by the Fourth Committee, to authorize its Rapporteur to transmit the relevant documentation directly to the General Assembly.

* Previously issued as part of A/34/23/Add.7.

Working paper prepared by the Secretariat

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* Previously issued under the symbol A/AC.109/L.1343.

1. GENERAL

1. Belize (formerly known as British Honduras) is situated on the eastern or Caribbean coast of Central America, bounded on the north and north-west by Mexico, and on the west and south by Guatemala. Its land area is about 22,963 square kilometres, which includes a number of islets (cays) lying off the coast.

2. At the last census, taking in 1970, the total population of the Territory was 119,863, of whom 39,332 lived in Belize City. Belmopan, the capital, had approximately 3,000 inhabitants in 1972. The population in mid-1977 was estimated at 149,000, consisting mainly of Creoles, American Indians (Mayas) and Caribs.

2. CONSTITUTIONAL AND POLITICAL DEVELOPMENTS

A. Constitution

3. An outline of the constitutional arrangements set out in the British Honduras Constitution Ordinance, 1963, as amended in 1973 and 1974, is contained in the report of the Special Committee to the General Assembly at its twenty-ninth session. b/ Briefly, the Constitution of Belize provides for a Governor appointed by the Queen, a Cabinet and a bicameral National Assembly consisting of a Senate and a House of Representatives. Of the eight members of the Senate, five are appointed by the Governor (Mr. Peter McEntee) on the advice of the Premier (Mr. George Price); two on the advice of the Leader of the Opposition (Mr. Dean Lindo); and one after such consultations as the Governor considers appropriate. The House of Representatives has 18 members elected by universal adult suffrage for a period of five years. At the last general elections, which took place on 30 October 1974, the People's United Party (PUP) secured 12 seats, the lowest total in 20 years, and the remaining seats went to the coalition called the United Democratic Party (UDP). Since the elections, a member of UDP has joined PUP, which now has 13 seats.

4. The Governor retains responsibility for defence, external affairs, internal security (including the armed forces) and the public service. Under the Belize Letters Patent, 1964 to 1974, the Governor, acting in accordance with the advice of the Premier, may assign to the Premier or any other minister, responsibility for any business of the Government, not otherwise delegated, as well as the department of the Attorney-General. The Governor may also, under conditions imposed by him, delegate to a minister chosen after consultation with the Premier, responsibility for matters relating to external affairs. Delegation of this authority is subject to the prior approval of the United Kingdom Secretary of State for Foreign and Commonwealth Affairs.

a/ The information contained in this paper has been derived from published reports and from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 e of the Charter of the United Nations on 26 September 1978 for the year ending 31 December 1977.

b/ Official Records of the General Assembly, Twenty-ninth Session, Supplement No. 23 (A/9623/Rev.1), vol. VI, chap. XXVII, annex, paras. 3-4 and 10-14.

5. The Cabinet consists of the Premier and other ministers (10 at present).
6. In his annual message on the state of the nation, presented to the National Assembly on 5 September 1978, Mr. Price, the Premier, stated that the new Representation of the People's Ordinance had come into operation in April, also a law conferring majority status on citizens 18 years and older. Machinery had been set in motion to carry out the registration of electors. The first list of voters published showed more than 40,000 voters, which included over 4,000 persons between the ages of 18 and 21 years who would be eligible to vote for the first time.
7. The general elections are due to be held in February 1979.

B. Memorandum of Understanding of 1978

8. At a meeting held in New York on 2 June 1978, Mr. David Owen, then United Kingdom Secretary of State for Foreign and Commonwealth Affairs, Mr. George Price, the Premier of Belize, and Mr. Dean Lindo, the Leader of the Opposition, signed a Memorandum of Understanding, setting out the following points:
 - "(a) The Government and Opposition of Belize have agreed to put the issue of the Anglo-Guatemalan dispute above party politics and to treat the search for a solution as a national objective.
 - "(b) Both the Government and the Opposition of Belize will be represented at any future talks or negotiations about the Anglo-Guatemalan dispute between the British and Guatemalan Governments.
 - "(c) Any final agreement that may be reached between the British and Guatemalan Governments would be put to the people of Belize in a referendum.
 - "(d) It is understood that the present series of talks have come to an end, and that the parties are not bound by any previous proposals of whatever nature.
 - "(e) The attendance of the representatives of the Government and Opposition of Belize at future talks between the British and Guatemalan Governments on the Anglo-Guatemalan dispute will be without prejudice to their respective positions or to the rights and responsibilities of the British Government.
 - "(f) It is agreed that a solution to the Anglo-Guatemalan dispute is highly desirable for progress to be made towards the independence of Belize. It is understood that the solution of the Anglo-Guatemalan dispute, and the independence of Belize are separate issues."
9. At a public meeting on 8 June, Mr. V. H. Courtenay, Minister without Portfolio and representative of the Government of Belize to the Caribbean Community (CARICOM), claimed that the above-mentioned memorandum was the product of a united front between the Government and Opposition in their search for the independence of the Territory. Three days later, opposition leaders held a meeting during which they denied the existence of any such united front between PUP and UDP or any joint plan to work for Belize's independence. They maintained that the memorandum was a

statement of understanding, recognizing "the right of the Opposition to be present at all future discussions on the Anglo-Guatemalan dispute". The two parties were expected to hold additional public meetings in the Territory during the coming weeks to give their respective explanations of the memorandum.

C. Positions of local political parties concerning the future of the Territory

10. On 8 February 1978, following the disclosure of the discussions between the United Kingdom and Guatemala on the possible cession of Belizean territory, the opposition UDP issued a declaration in which it called for a moratorium on independence for at least 10 years, during which time the energies of the people should be channelled towards the economic and social development of the Territory, the National Army should be strengthened and, with the United Kingdom, the Belize Government should seek the military co-operation of friendly nations for the defence of Belize. c/ Towards the end of the month, during the meeting of the foreign ministers of the six Governments of CARICOM (of which Belize is a member) at Belmopan, demonstrators of UDP picketed the delegates with placards reading, inter alia, "Referendum before independence".

11. In July, UDP was reported to have stepped up its campaign for a postponement of the Territory's independence, possibly for 10 years. In explaining the "Declaration for Deferred Independence", which was being circulated in the Caribbean, Mr. Kenneth Tillet, General Secretary of UDP, said that the National Assembly should approve a resolution agreeing to independence in principle, but accepting the need for deferment to allow the Belizean Army to develop into an efficient fighting force and to be supported by a defence pact involving the United Kingdom. The party believed that, should the National Assembly fail to approve such a resolution, the independence issue should be taken to the people of the Territory by way of a referendum or plebiscite, conducted either by the United Nations or the Commonwealth Secretariat.

12. In its October 1978 issue, Contact, a Barbadian newspaper, published a letter from Mr. Tillet, in which he said that UDP was pleased to learn of the "unequivocal support" for Belize's early independence being given by Governments and organizations in the Caribbean. He appealed to the people and Governments of the region to help the Territory become "a truly free and democratic nation" by supporting his party's proposal to hold a referendum on independence.

13. The views of Mr. Price on the future status of the Territory were expressed by him in a letter to The Financial Times (London), published on 3 May 1978. In his letter, Mr. Price drew particular attention to a resolution adopted at a special national convention of PUP, held at Belmopan on 16 April. The resolution requested "the United Kingdom Government to stop immediately any discussions with the Government of Guatemala which include the idea of land cession as a means of settlement of the Anglo-Guatemalan dispute over Belize". It further requested "the United Kingdom Government to adhere strictly to the relevant United Nations resolutions calling for the early and secure independence of Belize with full sovereign and territorial integrity". Finally, Mr. Price stated that the convention

c/ Ibid., Thirty-third Session, Supplement No. 23 (A/33/23/Rev.1), vol. IV, chap. XXIX, annex, para. 39.

urged "the Government of Belize, in co-operation with the United Kingdom and other friendly Governments, to actively pursue the alternative route to independence by concluding suitable security arrangements that will ensure the safety of the Belizean people and preserve the independence of Belize".

14. In his message on the state of the nation delivered on 5 September (see para. 6 above), Mr. Price gave further explanation of the position of his party in regard to the question of independence. In doing so, he pointed out that the policy pursued by the territorial Government was to attain the early and secure independence of Belize with all its territory. The Government proposed to do this by either a negotiated settlement, whose terms would be agreed to by the people of Belize in a referendum, or by a security arrangement.

15. Mr. Price also pointed out that the Governments of the United Kingdom and Guatemala were expected to meet shortly to begin new negotiations towards solving the Anglo-Guatemalan dispute and that the Government of Belize stood on the relevant resolutions of the United Nations.

16. The Premier said that his Government attached great importance to maintaining and strengthening international contacts and support. He added that Belize welcomed the offer of the United States of America to become involved in the search for a just solution. Belize continued to win more respect and support from the United Nations, the Non-Aligned Movement, and other international bodies. It paid special tribute "to our fellow members of the Caribbean Community, to the countries of the Bogotá Declaration, and to Panama and Mexico, who are nearest to our problem, and whose courage in supporting the rights of our people sustains us in our struggle".

D. Consideration by the General Assembly

17. On 29 September 1978, a spokesman for the United Kingdom Government stated that Mr. David Owen, and Mr. Rafael E. Castillo-Valdes, the Minister for External Relations of Guatemala, had met in the last four days in New York, where they were attending the thirty-third session of the General Assembly. He further stated that Mr. Owen had put forward for the consideration of the Government of Guatemala certain proposals, details of which were not revealed. Those proposals were designed to speed up the process of negotiation between both Governments and bring their dispute over Belize to an end. Mr. Owen had also suggested that the two countries should re-establish their diplomatic relations in order to facilitate communications between them.

18. Later, at the same session, the representatives of the parties involved presented their respective views on the question of Belize, which are summarized below.

United Kingdom

19. In a statement before the Fourth Committee on 28 November, d/ the Permanent Representative of the United Kingdom recalled that he had had to report to the Committee the previous year that his country had failed in its attempts to negotiate

d/ Ibid., Thirty-third Session, Fourth Committee, 27th meeting, paras. 13-22.

a settlement to enable Belize to attain full and secure independence. He stated that at a meeting held on 2 June 1978, the United Kingdom Secretary of State for Foreign and Commonwealth Affairs, the Premier of Belize and the Leader of the Belizean Opposition had agreed that the settlement of the Anglo-Guatemalan dispute would help Belize to move towards independence. Both the Government and Opposition of Belize had also agreed that the interests of the people of Belize should come first and that independence should become a national issue rather than a question of party politics. That national approach was illustrated by the fact that a member of the Government of Belize and the Leader of the Belizean Opposition were both present during the current debate.

20. The Permanent Representative reiterated that his Government's policy was to bring Belize to early and secure independence, and that any proposals for a settlement of the long-standing dispute between the United Kingdom and Guatemala over the latter's claim to the Territory would be put to the Belizean Government and its people. He added that, at meetings with the Guatemalan Minister for External Relations, held in New York in September 1978 (see para. 17 above), the United Kingdom Secretary of State had submitted proposals designed to end the Anglo-Guatemalan dispute; and that those proposals, which had not been made public, had been discussed with the Belizean Government and Opposition and were to be studied carefully by the Government of Guatemala while substantive negotiations continued.

21. The Permanent Representative pointed out that the above-mentioned proposals included the following:

(a) The United Kingdom would help with a major road project which would aid in developing the Guatemalan province of El Petén, and would be the modern equivalent of the provisions of article VII of the 1859 Treaty. In making that proposal, it took into consideration the fact that Guatemala's claim to the Territory had first been formulated in 1939 on the grounds that the article had not been fulfilled.

(b) Guatemala should enjoy free port facilities in Belize City and should have access by road to the port. Such facilities would enable Guatemala to import and export goods from El Petén by the most direct route and free of customs formalities.

(c) A seaward boundary should be agreed to by treaty as part of the settlement, guaranteeing Guatemala permanent, secure access from its ports to the high seas through its territorial sea.

(d) A separate treaty of amity and mutual security should be concluded between Belize and Guatemala, with provisions covering non-aggression and subversion, as well as limitations on the stationing of foreign, but not British, armed forces.

22. The Permanent Representative also pointed out that, so far, there had been no substantive reaction to the proposals from the Guatemalan Government. Nevertheless, his delegation hoped to be able to pursue negotiations on that basis, and believed that the proposals could lead to an early settlement of the dispute in question that would be constructive and fair to all parties.

23. Finally, the Permanent Representative said that the need for a settlement became more urgent as the frustration of the people of Belize grew; the wishes of the Belizeans should be respected and they should obtain the secure independence they had sought for many years.

Belize

24. In his statement before the Fourth Committee on 30 November, e/ Mr. Carl L. Rogers, Deputy Premier of Belize, said that, despite the differences existing between their two parties, both he himself and the Leader of the Opposition of Belize were present jointly to reject Guatemala's claim to their territory and to assert the right of the people of Belize to self-determination and independence. He stressed that the Belizeans alone exercised real sovereignty over their territory, and had participated in negotiations between the United Kingdom and Guatemala in an attempt to bring about conditions of peace and stability in the region by the time they attained independence.

25. Mr. Rogers pointed out that the willingness of Belize to agree to the September 1978 proposals revealed the sincerity with which it sought an honourable settlement, and that the failure of Guatemala to respond, and its insistence on the cession of the territory, revealed its intransigence and expansionist designs.

26. Mr. Rogers made the following additional points:

(a) Should Guatemala withdraw its territorial claim and recognize and respect the sovereignty and territorial integrity of Belize, the latter would be prepared to enter into agreements relating to non-aggression and the security of the area.

(b) Belize asked the Fourth Committee once again to reaffirm the principle of self-determination, independence and the preservation of the territorial integrity of Belize in a resolution.

(c) Whatever the outcome of the negotiations between the United Kingdom and Guatemala, the people of Belize reserved the right to request their constitutional independence at a time of their own choosing. The results of the negotiations should not endanger the security of an independent Belize.

(d) Belize appealed to the nations of the Western hemisphere and elsewhere to direct their efforts towards the elimination of a possible source of conflict in that hemisphere.

Guatemala

27. Addressing the Fourth Committee on 27 November, f/ the representative of Guatemala said that the singular feature of the problem of Belize was that it involved the demarcation between self-determination and territorial integrity. Segments of the population of Belize were of Indian ancestry and culture, and their relations, language and economic ties gravitated towards Guatemala. That minority within the local population deserved support and aid. His delegation

e/ Ibid., 29th meeting, paras. 42-57.

f/ Ibid., 26th meeting, paras. 45-48.

held that the principle of self-determination did not lead to establishing absolutely and indisputably a territorial integrity capable of overriding the territorial integrity and sovereignty of pre-existing States.

28. The representative of Guatemala also said that the question of Belize affected vital interests of his country, such as adequate access to the Atlantic Ocean, the subject of El Petén, questions associated with territorial waters and their demarcation, and a whole range of elements involving the security of Guatemala and Belize, prospects for the development of both of them and the stability of the entire Central American region. He went on to say that the Anglo-Guatemalan dispute was of a territorial nature and was based on history and law. His delegation reaffirmed its faith and confidence in peaceful means of settling disputes, and considered that political concepts were inadequate to the theme under discussion.

29. Among the points other representatives of Guatemala made during their subsequent interventions g/ were the following:

(a) Under article VII of the 1859 Treaty, the United Kingdom was obliged to build a road from Guatemala City to the Atlantic coast in Belize in compensation for the territory it occupied by virtue of the Treaty. Since the compensatory clause had not been complied with in any way at any time, the territory that was originally to be ceded remained under Guatemalan sovereignty. Guatemala's territorial claim therefore did not date from 1939.

(b) The Government of Guatemala would welcome a new, serious and constructive approach to the question under consideration. It had taken the necessary steps within its power to reduce tensions in Belize, but irresponsible statements could only stir up ill-feeling, cause offence and make the climate unpropitious for fruitful negotiations.

(c) The United Kingdom Government had indeed made various proposals during its latest meetings with the representatives of Guatemala; those proposals were at present under study.

(d) Guatemala was willing and ready to participate in negotiations with a view to reaching a just and equitable settlement of the dispute in question that would safeguard the vital rights and interests of all the parties concerned. The independence of Belize must be a consequence of the settlement of that dispute.

Decision of the General Assembly

30. On 13 December 1978, on the recommendation of the Fourth Committee, the General Assembly adopted resolution 33/36 on the question of Belize. Guatemala did not participate in the vote on the resolution recommended by the Committee, which it specifically rejected. The operative paragraphs of the resolution read as follows:

"The General Assembly,

...

"1. Reaffirms the inalienable right of the people of Belize to self-determination and independence;

g/ Ibid., 30th meeting, paras. 25-28; ibid., 31st meeting, paras. 38-41; and ibid., 32nd meeting, paras. 20-24.

"2. Reaffirms that the inviolability and territorial integrity of Belize must be preserved;

"3. Urges the Government of the United Kingdom of Great Britain and Northern Ireland, acting in close consultation with the Government of Belize, and the Government of Guatemala to pursue vigorously their negotiations with a view to settling their differences over Belize, without prejudice to the right of the people of Belize to self-determination, independence and territorial integrity, and furthering the peace and stability of the region, and in this connexion to consult as appropriate with other especially interested States in the area;

"4. Requests the Governments concerned to report to the General Assembly at its thirty-fourth session on the outcome of the negotiations referred to above;

"5. Calls upon the parties involved to refrain from any threats or use of force against the people of Belize or their territory;

"6. Recognizes that it is the responsibility of the United Kingdom, as the administering Power, to take all necessary steps to enable the people of Belize to exercise freely and without fear their right to self-determination and to a firm and early independence;

"7. Urges all States to respect the right of the people of Belize to self-determination, independence and territorial integrity, and to render all practical assistance necessary for the secure and early exercise of that right;

"8. Requests the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to remain seized of the question and to assist the people of Belize in the exercise of their inalienable rights."

E. Other developments

31. On 14 December 1978, in reply to a question in the United Kingdom House of Commons, Mr. Edward Rowlands, then Minister of State at the Foreign and Commonwealth Office, stated that his Government had not yet received a direct communication from the Guatemalan Government in response to the September 1978 proposals for the future of Belize. He added, however, that in his broadcast speech on 30 November, the Minister for External Relations of Guatemala had rejected the proposals but left the way open for further negotiations. h/

32. In response to further queries, Mr. Rowlands told the House on 17 January 1979 that the position taken by the Guatemalan Government in respect of the proposals remained as described above. The United Kingdom Government therefore intended to pursue the possibility of further negotiations. He undertook that during those negotiations, no decision, arrangement or settlement could be made which was unacceptable to the people of Belize.

h/ United Kingdom Parliamentary Debates, (Hansard), House of Commons, Official Report (London, H.M. Stationery Office, 1978), 1st December 1978, col. 276.

33. Mr. Rowlands was asked "what consultations have taken place with the United States about its continuing supply of arms to Guatemala and its training of personnel in that country in order to threaten Belize". Replying, he said that the Governments of the United Kingdom and the United States had regular discussions on such issues, the most recent having been held during the previous week. He understood that "the United States is not selling any new arms or equipment to Guatemala".

34. Mr. Rowlands was also asked the question: "If it [Guatemala] has rejected those proposals, what progress, if any, has been made on the proposal put forward at the Commonwealth Heads of State meeting at Kingston [Jamaica], which was that there should be a Commonwealth defence contribution to Belize?" He replied that the door had not been closed on the negotiations, and that the considerations referred to above "do not come into play at this moment". i/

35. The House continued to consider the question of Belize on 14 February and again on 28 March. According to Mr. Rowlands, the September 1978 proposals remained on the table. The United Kingdom still intended to seek a negotiated settlement with Guatemala which was acceptable to the Belizeans. This would enable the Territory to achieve secure independence. Its representatives had made clear that they regarded territorial cession as unacceptable. j/

36. At a meeting held at Rio de Janeiro, Brazil, in January 1979, following the rejection by Guatemala of General Assembly resolution 33/36 (see para. 30 above), the Juridical Commission of the Organization of American States (OAS) passed a resolution in which it stated that pretensions by the United Kingdom Government "to take unilateral decisions on the future of Belize" were "incompatible with Guatemala's sovereign rights as recognized by OAS". As a consequence, the United Kingdom "cannot decide on her own what to do" in regard to this question. Such decisions could only be taken through negotiations with Guatemala, which would in turn take into consideration the interests and desires of the people of Belize in accordance with the principle of self-determination of peoples set out in General Assembly resolution 1514 (XV). Finally, the Commission urged the United Kingdom to speed up the process of dialogue with a view to finding a just solution to Guatemala's claim over Belize.

37. In April, Jamaica was reported to have been joined by Grenada, Mexico and Trinidad and Tobago in condemning the resolution on Belize recently approved by the Commission. Mr. Alfred Rattray, the Ambassador and Permanent Representative of Jamaica to OAS, whose views were endorsed by the ambassadors of the three other countries, stated that his delegation was "shocked at the moral and intellectual bankruptcy" which had instigated and nurtured the resolution. The latter was expected to be contested at the next regular session of the General Assembly of OAS scheduled for November.

i/ Ibid., 17 January 1979, cols. 1695-1696.

j/ Ibid., 14 February 1979; ibid., cols. 555-556; and ibid., 28 March 1979, col. 169.

3. ECONOMIC CONDITIONS

A. General

38. The Territory's economy is based primarily on agricultural exports (sugar being the most important product), construction and manufacturing and government expenditures; the economy depends heavily on external sources for most of its capital development. The territorial Government continues to encourage exploitation of such local natural resources as fisheries, forests, livestock and possibly petroleum. The tourist industry is being developed.

39. Although Belize specializes mainly in the production of a few agricultural commodities for export, it shows a marked dependence on imports of certain food-stuffs and other goods. Available statistical information indicates that during the year ending 30 September 1977, the total value of imports was \$BZE 135.8 million, k/ and of exports \$BZE 95.7 million. Sugar accounted for more than 50 per cent of export earnings, while food-stuffs represented slightly over 21 per cent of the total import bill. As in the past, trade was chiefly conducted with the United States and the United Kingdom.

40. Reviewing the performance of the economy, Mr. Price, the Premier, who is also responsible for finance, stated in his budget speech, presented to the House of Representatives on 8 December 1978, that the Territory approached a new financial year in a world economy which continued to battle with inflation, unemployment, unsatisfactory growth rates, trade deficits, trade restrictions, threats of recession, balance-of-payments problems and currency instability.

41. Mr. Price further stated that, on the domestic scene, real gross domestic product had increased gradually in the recent past, reaching 5.5 per cent in 1977; at factor cost at the end of 1976 had amounted to \$BZE 163.4 million. The growth pattern had mainly reflected the performance of agriculture and manufacturing; it had been adversely affected by bad weather and a recession in 1975 but had recovered thereafter.

42. Mr. Price went on to say that Belize had been struck by Hurricane Greta on 18 September 1978, with the districts of Belize, Cayo and Stann Creek being hit hardest. Damages were estimated at over \$BZE 50 million, including the cost of replacing loss of property as well as future income. The United Kingdom Government had contributed \$BZE 15.1 million to help the Territory finance a short-term programme of rehabilitation (see para. 71 below). Despite the hurricane damage, the over-all economy should continue to improve. In this budget speech and in his recent message on the state of the nation (see para. 6 above), Mr. Price also gave information concerning the various segments of the economy, which is summarized in the relevant subsections below.

B. Agriculture, livestock and fishing

43. Agriculture accounted for one quarter of the gross domestic product in 1977, provided over half of its total exports and employed an estimated one third of the labour force.

k/ The monetary unit is the Belizean dollar (\$BZE). On 11 May 1976, the Belizean dollar was linked to the United States dollar at the rate of \$BZE 1.00 to \$US 0.50.

44. During that year, sugar production was 91,853 metric tons of which 85,999 metric tons, valued at \$BZE 51.6 million, were exported (61,799 metric tons of which 56,189 metric tons valued at \$BZE 36.7 million were exported in 1976). Production in 1978 reached a record total of approximately 110,000 metric tons, of which some 105,000 metric tons were to be exported at a value of \$BZE 60.7 million.
45. In 1977, for the first time, the value of exports of bananas (\$BZE 3.1 million) overtook that of citrus fruits (\$BZE 2.3 million). Hurricane Greta destroyed 70 to 80 per cent of the banana crop and there would be a reduction in the value of exports in 1978. As a result of hurricane damage, the citrus crop for 1978/79 would not increase by 10 to 15 per cent as had been expected.
46. The bulk of sugar and citrus was produced by extensive foreign-owned and managed estates, but since 1972, local planters have acquired larger farms under a programme of land reform, and are increasingly involved in the production of these two export crops. The programme continued in 1977, when 18,240 more acres of land were transferred from private ownership to the territorial Government especially for allocation to local people actively engaged in agriculture. Following the passage by the National Assembly of the Registered Lands Ordinance and the Land Surveyors' Ordinance, a start was made to improve the administration of titles. Surveys were completed to enable almost all areas in the Corozal and Orange Walk districts west of the New River to be brought under the new legislation.
47. Much farming has remained at the subsistence level, providing a variety of fruit, corn, rice and root crops principally for the domestic market. In 1978, the output of grains and red kidney beans exceeded the domestic demand and some went to the export market. Construction advanced in the grain silo-storage and rice-mill complex in the Toledo district, and work on the grain silo-storage complex at Belmopan was started. A record 940 metric tons of mangoes were exported to the United States. Efforts were being made to revive and expand the cacao industry.
48. During the same year, the supply of beef, pork, poultry and eggs was above demand, and there was an export trade in such commodities, notably beef. The Belize meat packing plant was transferred to a consortium of the government-owned Development Finance Corporation (DFC), set up in 1972, and the Caribbean Development Bank (CDB), of which the Territory is a member.
49. In the case of marine products, lobster catches remained unchanged in 1976 and 1977, but improved fishing equipment enabled the catches of shrimp and scale fish to increase by almost 50 per cent. The lobster sector of the fishing industry was severely damaged by Hurricane Greta.

C. Construction

50. In 1977, the construction industry experienced an upsurge in its activities, particularly in the building of residential houses and roads financed by the territorial Government. This trend should continue into 1978 with the expansion of grain silo-storage and housing facilities and the carrying out of certain other capital development projects such as those for ports, water and sewerage (see paras. 59-63 below).

D. Manufacturing

51. The principal manufacturing industries, which are largely owned by foreign interests, are those concerned with the processing of locally produced raw materials such as sugar, citrus and some timber. Further industrial development is being actively encouraged by the territorial Government. A number of small industries have already been established, including battery assembly, manufacture of clothing, fertilizer, furniture and paper products, flour milling, the production of beer and rum and tyre-capping. Industrial exports rose from \$BZE 12.1 million in 1976 to \$BZE 19.0 million in 1977. The Government has recently granted development concessions to 15 industrial concerns. When they go into full production, these concerns should provide employment to over 600 Belizeans.

E. Petroleum

52. In search of petroleum, Esso Ventures of the United States drilled two wells during 1977 - one in southern off-shore Belize and the other in the Toledo district. Both were reported as dry wells. Geological surveys have continued in southern Belize. In May 1979, the Anschutz Corporation, based in Denver (United States), announced that it had found a geological formation known as anticlinal structures near English Caye. Such structures are large domes in the rock strata where pockets of oil or natural gas are most likely to be discovered.

F. Tourism

53. The number of tourists visiting Belize increased from 52,684 in 1976 to 121,196 in 1978. The industry was expected to improve significantly in 1979, setting a new record of an estimated 160,000 visitors.

54. The territorial Government has taken steps to develop Belize's tourist potentialities, with the objective of enabling local people to maintain control and ownership of the industry. An important problem for the Territory is the need to accelerate the development of hotel accommodation. In 1978, there were 92 registered hotels (with a total of 854 rooms); in the first quarter of 1979, 107 hotels provided accommodation for 1,000 visitors.

55. A travel agent was reported to have said that "no other country in the region can offer the combination of archeological sites, sandy beaches, championship fishing, the barrier reef for exploration and diving, mountain and jungle areas for game hunting as well as a Spanish and English speaking society". He considered that the Government should have undertaken a major hotel development project and should have organized a major publicity programme for visitors.

G. Money and credit

56. Since its inception in early 1977, the Monetary Authority has expanded its activities, particularly related to operations and research. It has undertaken to buy and sell to the commercial banks stipulated foreign currencies by way of cover for authorized transactions at guaranteed rates. Its dealing in government securities has increased and has prepared the way for the establishment of a capital market. It has become a signatory to the Agreement creating the CARICOM

Multilateral Clearing Facility. At the end of October 1978, the Authority's foreign assets stood at \$BZE 32.0 million, compared with \$BZE 16.1 million during the same period in 1977. From time to time, it has made significant credits to the territorial Government. At the end of September 1978, the total money supply (i.e., demand deposits plus public currency) was \$BZE 34.8 million, an increase of \$BZE 6.5 million over the same period in 1977.

57. DFC has continued to increase and diversify its work in keeping with the Government's development plan for industry, tourism and housing. It has extended credit to small farmers for crop loans through co-operatives and credit unions (2,219 and 26,000 members respectively in September 1978). It has also set up an investment company, which has invested in certain industrial enterprises and is selling shares it acquired from the Belize Sugar Industries to farmers.

58. At the end of September 1978, deposits in the commercial banks totalled \$BZE 77.3 million as against \$BZE 65.3 million for the same period in 1977. The corresponding figures for the banks' advances were \$BZE 62.2 million and \$BZE 57.0 million respectively. The agricultural industry received about 35 per cent of which sugar accounted for more than half. Faster growth in deposits contributed towards a further increase in commercial bank liquidity.

H. Infrastructure

59. In 1978, the Belize Government paid special attention to further development of the Territory's systems of roads, ports, air and telecommunications, electric power, water and sewerage. The following projects were among the more important ones already completed or being undertaken.

60. Reconstruction of the Northern Highway was 75 per cent completed, and work continued on the Hummingbird and Western Highways. An additional 15 miles of sugar roads were completed in the north. Rice roads in the Toledo district and feeder roads in the other districts were being built. Construction of the first phase of the deep-water port in Belize City was started, at an estimated cost of over \$BZE 21 million, and was expected to be completed by April 1979.

61. A new freight line, Belize Air Freight, Ltd., began operations. New equipment was installed at the Belize International Airport to provide visual guidance to aircraft approaching to land. The runway at the San Pedro airstrip was improved. The Belize Telecommunication Authority was phasing out old telephone lines and a new multiple-access system was being introduced, initially in the Orange Walk district. The satellite earth station at Belmopan was nearing completion; it would give the Territory an independent international outlet to the world. The World Meteorological Organization (WMO) designated Belize as an important operational component in its regional hurricane warning plan.

62. The Belize Electricity Board was erecting a new generating plant at the Ladyville Power Station which is scheduled to be in operation shortly. The new generators and distribution system of San Pedro were completed, thus providing San Pedro with a reliable power supply. Work was started on a new power station at Caye Caulker, as well as on a new generating plant in the Stann Creek Valley.

63. The Water and Sewerage Authority has improved the quantity and quality of drinking water supplied to Belize City and rural areas. Work is continuing on the

Belize Water and Sewerage project. More than 200 houses were connected to the new Punta Gorda water system. Homes in Orange Walk Town were expected to get water from the system which was nearly completed. Improvement and expansion of the water systems of Corozal Town and San Ignacio continued.

I. Public finance

Budget strategy and associated policies

64. In his recent budget speech (see para. 40 above), Mr. Price expressed the view that the economy of Belize required a budgetary programme, involving a combination of fiscal, monetary, price and income policies. The budget strategy, he said, had the following objectives: (a) to lessen the effects of inflation; (b) to restrain recurrent expenditures; and (c) to support projects which would increase production and job opportunities; and keep prices and inflationary tendencies as low as possible.

65. Mr. Price pointed out that his Government's over-all goals were still the constant improvement of the well-being of every Belizean and of all the residents in the Territory who were assisting in its development effort. The Government continued to work towards rapid social and economic development, while at the same time ensuring that the fruits of development would be fairly and equitably shared, taking special account of the most needy section of the local population.

66. Mr. Price further pointed out that the 1979 budget again provided for a broadly based programme and incorporated the proposals outlined in the economic development plan for the period 1977-1979, details of which are contained in the previous report of the Special Committee. ^{1/} In drawing attention to the policies and programmes in the plan, he stated that they were designed to promote a greater degree of self-reliance and self-sufficiency, particularly through the expansion of food production and the substitution of locally manufactured goods for imports whenever possible. Foreign investment in suitable economic activities was welcome, with emphasis on the provision of every opportunity for the Belizean to participate fully in all development projects. He announced the Government's intention of improving the price control arrangements, thereby enabling the consumer to purchase the goods under control at the best possible prices, and the importers, producers and retailers to receive a fair margin of profit. Finally, he declared that the Government would continue to provide the economic infrastructure and institutions and stimulate the private sector.

Budget performance

67. According to Mr. Price, since the termination of grant-in-aid from the United Kingdom in 1967, Belize had balanced the recurrent budget and increased its contribution to the capital budget. Good management and performance had been rewarded by increased assistance on a bilateral and multilateral basis. The fiscal system had been overhauled, thus making it possible to exempt small-income earners from income tax, reduce rates and increase allowances for all. With the restructuring of the customs tariff, low rates or zero rates had been applied to basic items of consumption and production. DFC had granted substantial loans to many farmers, industrialists and hotel owners.

^{1/} Official Records of the General Assembly, Thirty-third Session, Supplement No. 23 (A/33/23/Rev.1), vol. IV, chap. XXIX, annex, paras. 58-63.

Budget estimates for 1979

68. The budget estimates for 1979, as proposed by Mr. Price, envisaged an expenditure of \$BZE 125.1 million (\$BZE 110.0 million in 1978) which comprised \$BZE 52.3 million for the recurrent budget, \$BZE 10.9 million for the local capital budget and \$BZE 61.9 million for the economic co-operation programme, but which excluded \$BZE 16.9 million for the budgets of statutory bodies.

69. Recurrent revenue was derived from direct and indirect taxes, interest and loan receipts, revenues from government departments, licences, rents and royalties. The total estimated recurrent expenditure would be allocated as follows: personal emoluments and pensions, \$BZE 30.5 million; goods and services, \$BZE 17.7 million; and public debt charges, \$BZE 4.1 million. The recurrent budget was held closely to the revised levels authorized for 1978, and few new or additional posts were allowed.

70. The 25 projects included in the local capital budget were financed mainly by excess of recurrent revenue over expenditure and to a small degree by capital receipts. Among these projects were the following: training of public officers, development of statistical services and improvement of agriculture and forestry, economic infrastructure, health and sanitation, social and educational services and broadcasting.

71. The economic co-operation programme was financed entirely by aid and loans from external sources. The major projects to be financed through United Kingdom co-operation included highways, water supply systems, part of the defence requirements and the hurricane rehabilitation programme. Funds provided under the latter programme would be used to assist small farmers, the banana and citrus growers and the fishing industry; to reconstruct bridges, drains, ferries, roads and streets; to protect coastal areas and rivers; and to rebuild or repair houses and other public properties. Certain projects which the Special Committee had noted in its previous report m/ would continue to be financed from the following three sources: the Canadian Government, CDB and the European Development Fund.

J. Caribbean economic integration

72. A basic objective of CARICOM, which was established by the Treaty of Chaguaramas of 1973, is to promote the economic integration of its member States (including Belize) through the creation of the Caribbean Common Market. In 1977, the regional integration movement was subjected to severe pressures, caused mainly by the adverse balance-of-payments position of some member States. In the following year, the over-all economic situation of countries in the region improved slightly, although most of the unfavourable conditions experienced during 1977 persisted.

Conference on Economic Development in the Caribbean

73. One of the favourable developments concerning the Caribbean Common Market was the holding of the Conference on Economic Development in the Caribbean at Washington, D.C., on 14 and 15 December 1977, which was sponsored by the World Bank together with several other organizations. Following the decision taken by the

m/ Ibid., para. 51.

Conference, the Caribbean Group for Co-operation in Economic Development was formed to co-ordinate and strengthen external assistance for a large number of Caribbean countries (including Belize). At its first meeting, held at Washington, D.C., in June 1978, the Caribbean Group created the Caribbean Development Facility (CDF) and the Technical Assistance Steering Committee (TASC), which is presided over by the United Nations Development Programme (UNDP). n/

74. At that meeting, the representative of UNDP announced that, in the period 1977-1981, UNDP would provide \$US 98.0 million for technical assistance in the Caribbean region, an increase of 39 per cent over the previous five-year period. According to UNDP, efforts to promote regional co-operation should focus on three main areas: (a) strengthening CARICOM; (b) encouraging subregional institutions to serve the less-developed countries; and (c) widening co-operation to include those countries in the greater Caribbean basin. UNDP has also provided the Territory with assistance on a bilateral basis. For the period 1977-1981, UNDP assigned to Belize an adjusted indicative planning figure of \$US 974,000, including \$US 137,000 provided in 1978 and not more than \$US 235,000 to be spent in 1979.

Second meeting of the Caribbean Group

75. The Caribbean imports food at an average annual per capita cost of \$US 80, one of the highest such bills in the world. Unemployment ranges from 20 to 40 per cent in the region. All the Caribbean countries except Trinidad and Tobago are net importers of energy, mostly in the form of petroleum. The bill for imported petroleum could represent 25 per cent of the projected foreign exchange earnings of those countries by 1983.

76. To deal with those and other problems, members of the Caribbean Group met at Washington, D.C., from 4 to 9 June 1979, under the chairmanship of the World Bank. CDB, the Inter-American Development Bank (IDB), the International Monetary Fund (IMF) and UNDP were also associated in sponsoring the meeting. The Group reached a number of important decisions, a summary of which follows.

77. At the meeting, some of the donor countries announced pledges totalling \$US 183 million for CDF-type financing. CDF had been set up to provide a flexible framework within which donors could make available local currency and balance-of-payments financing assistance to Caribbean countries encountering difficult short-term to medium-term economic problems. Disbursements from those pledges during the year beginning July 1979, plus previously announced assistance, were expected to reach \$US 227 million. Additional pledges during the year were to raise the total to approximately \$US 276 million (compared with an estimated \$US 186 million for the first year of operation of CDF ending 30 June 1979).

78. The Group agreed to set up an Ad Hoc Advisory Committee consisting of government representatives of recipient and donor countries. Upon receipt of the regional schemes proposed by the international institutions in the various sectors, the Committee would hold informal discussions thereon and would consult with other Governments as necessary.

n/ See also Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 23 (A/34/23/Rev.1), vol. III, chap. XXIII, annex, paras. 67-77.

79. The meeting fully supported the continuation of the activities of TASC. The latter had been created to co-ordinate and promote technical assistance, and to prepare regional programmes for the Caribbean countries.

80. Other achievements of the meeting were as follows:

(a) A task force formed by the Group would meet and formulate policies and programmes such as credit and financial arrangements, management training and revised export policies to stimulate the activities of the private sector.

(b) The Group decided to ask the International Trade Centre (ITC) to formulate the trade information system and market surveys to help the Caribbean countries increase their exports. The World Bank and UNDP were scheduled to meet with ITC in mid-August to discuss those and other proposals for a joint export promotion scheme, which was being elaborated by ITC.

(c) To assist the Caribbean countries to produce more food for local consumption, the Group approved a region-wide effort in agricultural research. It was also decided to establish a good market information network for use by small agricultural producers.

(d) TASC was asked to formulate an extensive regional effort in energy production in co-operation with the Caribbean Governments. The future project would assist Governments in developing indigenous energy resources; increasing measures to conserve energy; producing alternative energy sources (hydro, geothermal, solar, charcoal, etc.); and strengthening energy planning and administration.

(e) In the tourism sector, it was agreed to establish a working group comprising representatives of the Caribbean Tourism and Research Centre (CTRC) and the World Bank to prepare a plan of action for regional tourism promotion and development.

(f) In the transportation sector, it was agreed that TASC would continue to monitor the eight regional projects now under preparation or implementation. Four of them were in the implementation stage. They were: aid to the regional airline, Leeward Islands Air Transport (LIAT); airport maintenance and operations; port authority legislation and management; and shipping statistics.

(g) A separate subgroup examined the situation of the less-developed CARICOM countries (including Belize). Besides giving attention to the question of common services, it discussed three specific regional schemes: food aid, a revolving fund for agricultural inputs and a basic-needs trust fund. It was suggested that an ad hoc meeting of donors and recipients take place in due course to complete final details and financing for those schemes, which were considered to be appropriate to the urgent needs of the countries. It was noted that some donors had indicated which of 400 investment projects formulated for those countries they would finance, and that the projects (including agro-industry promotion, livestock and forestry development, road maintenance, water works, housing, etc.) had also received funding from CDB.

Other developments

81. Other recent developments affecting the regional integration movement are outlined below.
82. During 1978, the Common Market Council of Ministers agreed to amend the new rules of origin for manufactures traded between member countries, although it had called for the adoption of those rules on 1 January of that year. The amendment was designed to protect the less developed countries against any erosion of revenue they might suffer as a result of importing goods free of duty under the new origin system. In addition, the adoption of that system was postponed to 1 April 1979 so as to allow members more time in which to enact the legislation required for bringing the new system into force. The Council also agreed that the fully integrated, restructured Common External Tariff (CET), based on the 1978 edition of the Customs Co-operation Council Nomenclature, would be introduced by the more developed countries on 1 January 1979, while the less developed countries would introduce CET as soon as practicable thereafter. With regard to the Agricultural Marketing Protocol (AMP), the Council expressed the view that it did not provide an effective basis for long-term planning of agricultural production. It therefore decided that the Working Party on AMP should undertake a comprehensive review of the Protocol within a Common Market framework.
83. During the same year, UNDP approved a regional project to provide technical assistance through CDB to expedite the implementation of the Regional Food Plan and to bring the Caribbean Food Corporation into full operation. The main objective of the plan is to reduce the region's dependence on food imports through increased production and improved marketing of regional agricultural products (see also para. 80 above). The plan envisages the establishment of one of the two large farms in Belize, covering an area of 7,500 acres in which maize, soya and kidney beans, sesame, sorghum and peanuts will be grown. Furthermore, an important feature of the livestock part of the plan is to set up large herds of cattle in the Territory.
84. There were three additional significant developments. First, the Board of the CARICOM Multilateral Clearing Facility, among other things, doubled the size of the facility to \$US 80 million and reduced the mandatory settlement amount to one half of the outstanding balance (see also para. 56 above). Secondly, the Government of Trinidad and Tobago established the Caribbean Aid Council to provide economic and technical assistance to CARICOM countries. Thirdly, negotiations between the European Economic Community (EEC) and certain Africa, Caribbean and Pacific (ACP) countries began on a successor agreement to the Lomé Convention, due to expire in 1980 (see A/AC.176/7). CARICOM countries approved proposals for a regional common position on all major areas under negotiation such as trade co-operation, financial and technical assistance, stabilization of export earnings, industrial development, and trade in sugar, bananas and rum.
85. On 20 January 1979, Canada and CARICOM countries met in Jamaica to sign an agreement providing for financial, technical, trade and industrial co-operation between the two parties. o/

o/ Ibid. paras. 78-79.

4. SOCIAL CONDITIONS

A. Labour

86. Prior to 18 September 1978, when Hurricane Greta struck Belize, over 15 per cent of the local working-age population was reported as unemployed. As noted in the preceding section, agriculture - notably the banana and citrus sectors - which employed an estimated one third of the labour force, was severely damaged by the hurricane, as were the fisheries. As a result, many more local people were put out of work. Having assessed the damage caused to the economy, which was officially estimated at more than \$BZE 50.0 million, the United Kingdom Government provided Belize with special aid totalling \$BZE 15.1 million to help with rehabilitation following the recent hurricane. Part of this aid was to be used to assist the Territory in restoring agriculture and the fisheries.

87. At the June 1979 meeting, the Caribbean Group for Co-operation in Economic Development particularly noted that unemployment ranged from 20 to 40 per cent in the region. Accordingly, it took measures designed to help Caribbean countries to meet their need for external assistance so that, among other things, they could maintain acceptable levels of development and employment. Members of the Group pledged \$US 183 million for CDF-type financing. During the year 1979/80, the sum was expected to reach \$US 276 million with additional pledges (compared with an estimated \$US 186 million for the first year of operation of CDF ending 30 June 1979). They also agreed to finance a number of the 400 investment projects formulated for the less developed countries of the region. However, there is no information to indicate what projects for the Territory have been financed by CDF or donor countries. It is therefore not possible to ascertain whether the action recently taken by the Group has had any significant direct impact on the local economy and employment.

B. Housing

88. In his 1978 message on the state of the nation (see para. 6 above), Mr. Price, the Premier, stated that his Government, through its agencies, had built about 350 houses in Ladyville, Belize City and Belmopan. In addition, with assistance from CDB, DFC and the government-owned Reconstruction and Development Corporation approved 65 and 236 housing loans respectively.

89. As reported in October 1978, Hurricane Greta completely destroyed at least 150 houses, making some 1,000 persons homeless, and seriously damaged probably another 1,000 houses.

90. In his budget speech of 8 December 1978 (see para. 40 above), Mr. Price said that many houses had been built. In particular, he pointed out that annually, the Housing and Planning Department erected some 20 to 25 houses; and that, in addition to the granting of housing loans, the Reconstruction and Development Corporation had constructed 200 houses. He further pointed out that some of the funds provided by the United Kingdom Government for the hurricane rehabilitation programme (see para. 71 above) would be used to finance housing projects, and that the total investment in housing was estimated at \$BZE 15 million.

C. Public Health

91. According to the information transmitted by the United Kingdom, the medical institutions in the Territory comprised seven government hospitals in 1977: one in each of five districts, one in Belize City and one in Belmopan. The Chief Medical Officer was assisted in the administration of the health services by two medical officers, a principal nursing officer and other staff.

92. In his message on the state of the nation delivered on 5 September 1978 (see para. 6 above), Mr. Price said that the Medical Department had its full complement of medical officers and that all districts of the Territory had ambulance service. He added that measures had been taken to combat the resurgence of malaria, cases of which had been reported in four districts; that the environmental sanitation programme had continued; and that major repairs were being done to two district hospitals. Later in the year, the Premier announced that a new hospital had been built in Orange Walk Town and that health clinics had been provided in rural areas.

5. EDUCATIONAL CONDITIONS

93. Education is compulsory for children between the ages of 6 and 14 years. According to the administering Power, in 1976 (the last year for which detailed data are available), there were 11 government and 182 government-aided primary schools providing free education to 32,377 pupils. In addition, there were approximately 1,000 pupils attending 11 private fee-paying primary schools. All except 11 of the primary schools were managed by religious missions. With the foundation securely laid at the primary level, emphasis was now being placed on the development of secondary education.

94. Most of the secondary school pupils took a four-year or five-year course leading to the Ordinary-level examination of the Cambridge University General Certificate of Education, or the examination of the Royal Society of Arts. An increasing number of students were doing sixth-form work. In 1976, 5,566 students (including 250 at the sixth-form level on Government scholarships) were enrolled in 21 secondary schools and were taught by 343 teachers. Of these schools, 4 were run by the Government, 15 by religious missions and the remaining 2 by private persons. The Belize Technical College, one of the four government institutions, had 495 pupils, of whom 225 were taking secondary school courses and 270 craft and technical courses.

95. The Belize Teachers' College, which offered a two-year diploma course leading to trained teacher status, had a total enrolment of 137 in 1976. There were no institutions of higher education in the Territory, but extramural courses were available through the University of the West Indies. Suitably qualified students had the opportunity to undertake courses at universities and other institutions overseas.

96. In his recent message on the state of the nation (see para. 6 above), Mr. Price, the Premier, provided the following information concerning improvements made by his Government to educational services. Among the major educational projects were: (a) construction of a new community college in Corozal Town; (b) completion of four new schools in two districts and Belize City; and

(c) enlargement of several other schools in that city. Agriculture was introduced into the curriculum of the Belize Teachers' College in January 1978. The Belmopan Comprehensive School completed its first year with agriculture as part of the formal programme of studies. The Government supported the sixth-form programme in the Territory by providing many scholarships. It continued to send Belizeans abroad on scholarships to further their education.

97. In his budget speech of 8 December 1978 (see para. 40 above), the Premier gave additional information on educational developments. According to him, there were 200 primary schools and 23 secondary schools in the Territory, all receiving assistance from the Government. The Belize Technical College and the Belize Teachers' College were expanded and restructured to meet the Territory's real development needs. In addition, vocational schools, junior secondary schools and an agricultural training school were established. With the increasing number of free scholarships, many Belizeans became valuable professionals such as doctors, nurses, agriculturalists, engineers, lawyers, social scientists and teachers. In the capital programme for 1979, allocations were made for educational facilities, including rural junior secondary schools, etc.

98. Two important educational developments occurred in early 1979. The first was the decision taken by the Government to replace the General Certificate of Education examination with the Caribbean examination, which was expected to have a quality parallel to that of the former. The new examination was to be conducted by the Caribbean Examination Council which had been recognized as an associate institution of CARICOM. It would deal with only five subjects (English, geography, history, integrated science and mathematics) in that year. It would be expanded to cover three more subjects (agriculture, business education and Spanish) by 1980 and would comprise the whole syllabus by 1983.

99. The second important development was an official announcement that the Government-financed Belize College of Arts, Science and Technology would start operating in September 1979, the aim being to meet the need for more Belizeans with training in the professional and technical fields. The College was to be made up of the secondary schools now offering sixth-form courses; in addition, it planned to offer one-year advanced diploma courses in accountancy, education and mathematics.

CHAPTER XXX*

ANTIGUA, ST. KITTS-NEVIS-ANGUILLA AND ST. VINCENT

A. Consideration by the Special Committee

1. The Special Committee considered the question of Antigua, St. Kitts-Nevis-Anguilla and St. Vincent at its 1161st meeting, on 16 August 1979.
2. In its consideration of the item, the Special Committee took into account the provisions of the relevant General Assembly resolutions, including in particular resolution 33/44 of 13 December 1978 on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. By paragraph 12 of that resolution, the Assembly requested the Special Committee "to continue to seek suitable means for the immediate and full implementation of General Assembly resolution 1514 (XV) in all Territories which have not yet attained independence and, in particular: to formulate specific proposals for the elimination of the remaining manifestations of colonialism and to report thereon to the General Assembly at its thirty-fourth session". The Committee also took into account General Assembly decision 33/414 of 13 December 1978 as well as General Assembly resolution 33/152 of 20 December 1978 concerning, inter alia, the above Territories.
3. During its consideration of this item, the Special Committee had before it a working paper prepared by the Secretariat (see annex to the present chapter) containing information on developments concerning the Territory.

B. Decision of the Special Committee

4. At its 1161st meeting, on 16 August 1979, following a statement by the Chairman (A/AC.109/PV.1161), the Special Committee decided, without objection, to give consideration to the question of Antigua, St. Kitts-Nevis-Anguilla and St. Vincent at its next session, subject to any directives which the General Assembly might give in that connexion at its thirty-fourth session and, in order to facilitate consideration of the item by the Fourth Committee, to authorize its Rapporteur to transmit the relevant documentation directly to the General Assembly.

* Previously issued as part of A/34/23/Add.7.

ANNEX*

Working paper prepared by the Secretariat

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* Previously issued under the symbol A/AC.109/L.1344.

1. GENERAL

1. Antigua and St. Kitts-Nevis-Anguilla form part of the Leeward Islands and lie midway in the arc of the West Indian Islands. St. Vincent is one of the Windward Islands. The population of the Associated States is mainly of African and mixed descent.

Area and population

	<u>Area</u> (square kilometres)	<u>Population</u>	
		<u>1970</u> (census)	<u>Mid-year 1977</u> (estimates)
Antigua (including Barbuda)	443	65,525	72 000
St. Kitts-Nevis-Anguilla	401	64,000 <u>a/</u>	66 000
St. Vincent (including the St. Vincent Grenadines)	389	87,305	100 000 <u>b/</u>

Source: United Nations Statistical Papers (ST/ESA/STAT/SER.A/128).

a/ Includes estimate of 6,524 persons for Anguilla, which did not take part in the 1970 census.

b/ Latest official estimate as of 31 December 1973.

2. On 13 April 1979, Mount Soufrière in St. Vincent erupted, spilling steam and tons of dust over the island and as far away as Barbados. As a result, an estimated 20,000 persons living in a 16-kilometre radius of the volcano, its danger zone, were either evacuated or left their homes voluntarily; they were housed in 67 reception centres near Kingstown, the capital. Teams of seismologists from the Caribbean, the United Kingdom of Great Britain and Northern Ireland and the United States of America visited St. Vincent to monitor the volcano's activity. Following the appeal of Mr. Milton Cato, the Premier, the Territory received relief assistance from Governments and agencies in the Caribbean, Europe and North America.

3. In an address to the people of St. Vincent on 8 June, Mr. Cato announced that, according to the seismologists, it was now considered safe for all evacuees, except those on the windward side of the island, to return to their homes. Thus, the reception centres were closed from 11 to 18 June. After revealing extensive damages caused by the volcano, the Premier urged all Vincentians to play their part during the period of reconstruction.

a/ A separate constitution for Anguilla came into effect in February 1976.

b/ The information contained in this section has been derived from published reports.

4. The first seminar on Caribbean disaster preparedness was held from 10 to 21 June 1979 at Castries, the capital of St. Lucia. Over 140 participants attended, representing countries in the Caribbean, Europe and North America, as well as regional and international organizations. The seminar was intended to improve Caribbean planning and preparedness for the region's natural disasters. In his opening statement, Mr. John Compton, then Prime Minister of St. Lucia, said that the recent volcanic eruption in St. Vincent exposed not only the vulnerability of the Caribbean countries but also a weakness in co-ordinating effective responses in the face of disasters. He therefore called for the establishment of a regional organization to co-ordinate assistance in the wake of major disasters.

2. CONSTITUTIONAL AND POLITICAL DEVELOPMENTS

A. Present constitutional arrangements

5. Following the dissolution of The Federation of the West Indies in 1962 and subsequent negotiations on the status of the individual Commonwealth Caribbean Territories, the Government of the United Kingdom proposed in 1965 a new constitutional status for six Territories, namely, Antigua, Dominica, Grenada, St. Kitts-Nevis-Anguilla, St. Lucia and St. Vincent. Under the proposals, which were implemented in 1967 in Antigua, Dominica, Grenada, St. Kitts-Nevis-Anguilla and St. Lucia and in 1969 in St. Vincent, each Territory became a "State in association with the United Kingdom", with control of its internal affairs and the right to amend its own constitution, including the power to terminate the association with the United Kingdom and eventually to declare itself independent; the Government of the United Kingdom retained responsibility for the external affairs and defence of the Territories. Grenada attained independence upon termination of its associated status on 7 February 1974, followed by Dominica (now known as the Commonwealth of Dominica) on 3 November 1978 and St. Lucia on 22 February 1979. As a result, there remain only three Associated States.

6. Other main features of the constitution for each Territory include provision for a parliament: one house in St. Kitts-Nevis-Anguilla and St. Vincent, and an upper house and a lower house in Antigua. Each parliament has a life of five years. In each Territory, the head of the executive Government is the Governor, who is appointed for a term of five years by the Queen, and who acts in accordance with the advice of a cabinet, composed of the Premier and other ministers. The Cabinet is charged with the general direction and control of the Government and is collectively responsible to its parliament.

7. The Governments of the Associated States participate in a Supreme Court of Judicature, whose jurisdiction may be extended to other interested Territories in the Caribbean. The Court has jurisdiction, among other matters, over fundamental rights and freedoms, membership of the parliaments and conflicts between parts of the constitution of each State. The jurisdiction of the Court is prescribed by the parliament of each State.

8. A representative of the United Kingdom Government in the area is responsible for the conduct of relations between the United Kingdom and the Territories.

9. A special situation exists in Anguilla. c/ Briefly, under the terms of the Anguilla Act of 1971, the United Kingdom Government resumed direct responsibility for the affairs of Anguilla. Subsequently, a separate Constitution for the island came into operation on 10 February 1976.

10. In 1975, the Constitution of St. Vincent was amended to empower the Governor, acting in his own deliberate judgement, to appoint a leader of the opposition if there were two or more elected members who did not support the Government, but none of whom commanded the support of the other or others. In the exercise of his judgement, the Governor was instructed to be guided by the seniority based on the length of service of the elected member and/or by the number of votes polled by the member at the general elections.

B. Future status of the Associated States

General

11. The West Indies Act, 1967, establishing the West Indies Associated States (WIAS), provides two means by which any Associated State may become independent. Under section 10 (1) and its schedule, the local legislature is empowered to pass an independent constitution with a two-thirds majority, which must be ratified by a two-thirds majority in a referendum. Under section 10 (2), the United Kingdom Government may, at any time, terminate its association with an Associated State by an order-in-council.

12. In this connexion, the Heads of Governments of the Associated States adopted a resolution at a meeting held at Basseterre, St. Kitts, in December 1975. d/ The resolution noted, among other things, that the constitution of no other Commonwealth Caribbean country made a provision for a referendum as a prerequisite to independence and that the status of association could no longer serve the development and constitutional requirements and aspirations of the Governments and peoples of the Associated States. It was therefore resolved: "That the Governments of the Associated States approach the United Kingdom Government at the earliest possible date with a view to seeking the termination of the status of Association with the United Kingdom in accordance with the provisions of section 10 (2) of the West Indies Act, 1967." During the same month, the Second Conference of Heads of Governments of the Caribbean Community (CARICOM), which was also held at Basseterre, adopted a separate resolution supporting the desire of the Governments of the Associated States to terminate the status of associations and to proceed to full independence.

13. At about that time, an official of the United Kingdom Government with responsibility for relations with the Associated States had stated to the press that the United Kingdom would not prevent any of the Associated States from becoming independent, nor would it push them into independence. During a visit to Dominica in December 1977, Miss Anne Stoddart, deputy head of the department at the United

c/ Official Records of the General Assembly, Thirty-second Session, Supplement No. 23 (A/32/23/Rev.1), vol. IV, chap. XXX, annex, paras. 9-18.

d/ Ibid., Thirty-first Session, Supplement No. 23 (A.31/23/Rev.1), vol. IV, chap. XXV, annex, paras. 17-19.

Kingdom Foreign and Commonwealth Office that dealt with the Associated States, reaffirmed the above-mentioned position of her Government, adding that the United Kingdom was happy to see the Territories proceed to independence.

14. At a meeting held at Castries, St. Lucia, on 15 and 16 May 1979, the Council of Ministers of the West Indies Associated States which had been formed in late 1967 as the institution for intergovernmental co-operation among the seven Leeward and Windward Islands (Antigua, Dominica, Grenada, Montserrat, St. Kitts-Nevis-Anguilla, St. Lucia and St. Vincent), adopted two resolutions. In the first resolution, among other things, it was decided to convert the Council into the Organization of Eastern Caribbean States (see also paras. 53-57 below). In the second resolution, it was decided to request the United Kingdom Government to give urgent consideration to granting independence to the remaining Associated States as early as possible and preferably not later than the end of 1979. Following is a summary of recent developments in these States.

Antigua

15. At a meeting of the ruling Antigua Labour Party (ALP) held on 17 September 1978, Mr. Lester Bird, Deputy Premier, who is also its chairman, stated that at the last general election, held in 1976, ALP had supported independence for the Territory. The party had considered that independence should follow the development of an economic base, and that the "chaos" into which the former Progressive Labour Movement (PLM) administration had thrown the economy was not the base. Believing that the present Government had an economic foundation, the Deputy Premier called for independence for Antigua. Later in the month, the Government announced that Mr. Vere Bird, the Premier, would hold exploratory talks on the question of independence during his forthcoming visit to London. He told reporters that his Government intended to see Antigua gain its independence by 1 November 1979.

16. Upon learning of that announcement, the opposition PLM, in its news organ the Leader, said that it would only support Antigua's independence, should the issue be decided in a general election (see also para. 20 below).

17. Speaking in a radio broadcast on 1 November to mark the eleventh anniversary of Antigua's becoming a State in association with the United Kingdom, Mr. Vere Bird made a strong plea for national unity and support for his Government's move to lead the Territory to independence by the next Statehood Day. Subsequently, after receiving full support from the ALP convention, the Premier established a committee to make plans for independence, with Mr. Lester Bird as its chairman.

18. At a press conference held in early December, Mr. Lester Bird pointed out that eight subcommittees of the Independence Committee had been formed, one of which was responsible for the preparation of a draft constitution for an independent Antigua. The Constitution Sub-Committee would hear and receive proposals from organizations and individuals before producing the draft constitution. The latter would be published for public discussion before it was prepared in final form. Following a debate on the document in Parliament, the Government would request the United Kingdom to initiate negotiations leading to independence and that a firm date for independence would be set.

19. Mr. Lester Bird also pointed out that the Government wanted to ensure the full involvement of all the population from the start of drafting the constitution to the celebration of independence status. He made it clear that the Government intended to take Barbuda, the Territory's dependency, into independence as part of the State of Antigua. In that connexion, Mr. Eric Burton, the member for Barbuda in the House of Representatives, gave notice that, owing to the lack of development on the island, its people might opt to remain under United Kingdom administration.

20. In his public statements made between November 1978 and early January 1979, Mr. George Walter, the Leader of the Opposition, gave further explanation of the position of PLM in regard to the question of independence. He maintained that the Government of Mr. Vere Bird had no mandate to take Antigua into independence because it had opposed the issue in the 1976 election. Another reason why PLM opposed independence at the present time was the several violations of the fundamental rights or opponents of the Government, rights which were guaranteed in the present Constitution. He had recently sent a letter to the Government, declaring that his party would take no part in preparations for Antigua's independence unless a general election was first held. Similar views were expressed by the Antigua-Caribbean Liberation Movement, a non-parliamentary opposition group. It particularly called for immediate establishment of a constituent assembly, representative of the local community, to draft an independence constitution, a demand which was supported by the Antigua Union of Teachers.

21. On 17 January 1979, Mr. Stanley Arthur, the United Kingdom representative to the Associated States, was reported to have said that although the United Kingdom Government was aware of the statement made by Mr. Vere Bird on 1 November 1978 (see para. 17 above), it had not yet received a formal independence proposal from the Antigua Government.

22. Mr. Lester Bird responded by stating that Antigua would not formally seek independence from the United Kingdom until the territorial Government was certain that the "democratic process of discussion" among local people had been exhausted. So far, the two Governments had merely had "preliminary but conducive discussions". The territorial Government was interested in a full dialogue on a new constitution for Antigua and other matters connected with independence and the Government had therefore set up the Independence Committee with more than 100 members. When the Constitution Sub-Committee had completed its studies on a new constitution, foreign policy and economic development and Antiguanians had had a full input, only then would a formal request for independence be submitted to the United Kingdom Government.

23. During a visit to London in early April, Mr. Lester Bird was reported to have informed Mr. Edward Rowlands, then Minister of State at the Foreign and Commonwealth Office, that a draft constitution for an independent Antigua was being prepared and that the territorial Government was willing to include the opposition PLM in the preparatory discussions leading to a full constitutional conference. He added that "my Government is very concerned that the Opposition be satisfied about safeguards in the constitution, which after all will serve every Antiguan regardless of political persuasion". After his return to Antigua, he told reporters that both the Labour and Conservative Parties of the United Kingdom were committed to granting independence to the Territory.

24. At the end of that month, when he visited Barbados, Mr. Lester Bird said at a press conference that most of the groundwork on independence had already been done in Antigua, with a draft constitution expected to be presented to Parliament by the

end of May, and that a consultative process was now under way in the Territory. He hoped that preparatory talks with the United Kingdom Government would be held by July, leading up to a full-fledged constitutional conference set for October, and that Antigua would become independent by February 1980 at the latest.

St. Kitts-Nevis-Anguilla

25. In March and April 1976, the territorial Government began talks with officials of the United Kingdom Government at London. e/ Further talks were held between the two parties in March 1977. Subsequently, Mr. Robert Bradshaw, the late Premier, was reported to have said that the failure to achieve independence for the Associated State in 1977 had been attributed to "continued fundamental differences between the United Kingdom Government and ourselves over the question of Anguilla" (see para. 9 above). He added that the referendum recently carried out by the Opposition Nevis Reformation Party (NRP) in that island had no legal basis and that "we still intend to go to independence with Nevis". In May 1978, Mr. Paul Southwell was appointed Premier following Mr. Bradshaw's death.

26. On 30 July, after completion of another round of talks at London with the United Kingdom Government, Mr. Southwell returned home. He told reporters that he had discussed with Mr. Rowlands plans to achieve full independence for the State. The discussions had mainly concerned Anguilla and Nevis. According to NRP, the results of the above-mentioned referendum indicated the desire of the voters of Nevis to attain political separation from St. Kitts.

27. In a radio and television broadcast during August, Mr. Southwell said that the status of Anguilla had proved to be a serious stumbling block in independence talks with the United Kingdom Government. Mr. Rowlands had made it clear that his Government would not support any secession from Nevis.

28. In another television broadcast during September, Mr. Southwell stated that he was making a last appeal for the development of genuine unity on the basis of equality and mutual respect among the three islands of the State. He pleaded with Anguillians to return to the fold, and with the Nevisian leaders to cease in their efforts further to fragment the State. He invited "leaders of the people of Anguilla to consider mounting an expedition to discuss finally the relationship between the rest of the State and Anguilla". He also sent out a call to the Nevisian leaders who had been requesting greater autonomy for Nevis. He promised that his Government "would go as far as is reasonably possible to grant that request without creating a federation, without breaking up the State".

29. Subsequently, Mr. Southwell announced that he would lead a delegation leaving on 15 March 1979 for London to hold further independence talks with the United Kingdom Government, and would join Mr. Lee Moore (the Attorney-General), who was already there, and the Nevis delegation headed by Mr. Simeon Daniel, the Leader of the Opposition. While admitting that so far he had failed to bridge the gap between his Government and NRP, Mr. Southwell nevertheless pointed out that Mr. Daniel had recently indicated to him that they might tackle the problem while they were in London together.

e/ Ibid., Thirty-third Session, Supplement No. 23 (A/33/23/Rev.1), vol. IV, chap. XXX, annex, paras. 29-35.

30. The fourth round of independence talks among the three delegations opened on 19 March. Starting from 22 March, Mr. Rowlands held talks with another delegation headed by Mr. Emile Gumbs, Chief Minister of Anguilla. At the conclusion of the meetings with representatives of St. Kitts-Nevis, a short statement was issued, describing the talks as a continuation of constitutional discussions in progress since 1976. According to the statement, the representatives of St. Kitts-Nevis agreed to study further proposals made by the United Kingdom Government and to respond as expeditiously as possible with a view to resolving the constitutional problems before the end of 1979. Upon returning from London, Mr. Daniel told reporters that Mr. Rowlands had made it clear that the above-mentioned proposals were in no way binding. Nevis had been assured that it would not be pushed into independence unless its people agreed.

31. In a statement concerning Anguilla issued by the United Kingdom Government, the following point was made:

"The Anguillan delegation gave a full account of the obstacles to the island's development which flowed from its present anomalous constitutional status. Mr. Rowlands stated that it was the United Kingdom Government's firm purpose that all the outstanding constitutional issues affecting the territory of Anguilla would be resolved before the end of 1979."

A spokesman for the United Kingdom Foreign and Commonwealth Office was quoted as having said that the island was not seeking independence, but dependency status.

32. During a visit to Montserrat on 25 May, Mr. Ivor Stevens, Vice-President of NRP, who is also a member of the House of Assembly, was reported to have stated that a United Kingdom White Paper had called for the maintenance of a relationship between St. Kitts and Nevis in the concept of independence with entrenched clauses granting greater autonomy to the Nevisians. He further stated that this proposal could not be accepted on the ground that "Nevis wanted a direct association with Great Britain similar to the associated statehood".

33. On 3 June, two weeks after he became the new Premier of the State as a result of the death of Mr. Southwell, Mr. Lee Moore granted an interview to a correspondent of the Advocate-News (Barbados). Referring to the proposals recently made by Mr. Rowlands (see para. 30 above), Mr. Moore expressed the hope that the constitutional problems encountered by the State would be resolved before the end of 1979. On the subject of Anguilla, he noted that, unlike Nevis, the island had been administered separately for the past 12 years. Further, owing to their geographical locations, the lives of the people of St. Kitts and Nevis were integrated to a much greater degree than that of the people of St. Kitts-Nevis and Anguilla. He therefore considered that the possible secession of Nevis was unrealistic, and that the question had to be resolved on the basis of the realities of the situation.

St. Vincent

34. On 23 March 1978, f/ Mr. Cato, whose party (St. Vincent Labour Party (SVLP)) holds 10 of the 13 elected seats in the House of Assembly, was reported to have submitted to the House a draft resolution authorizing the Government to seek full

f/ Ibid., paras. 55-64.

independence for the Territory without delay. During the debate on the draft, he maintained that the victory of his party (19,579 out of the 28,574 votes cast) in the 1974 general election, gave it a mandate for leading St. Vincent to independence. Mr. Ebenezer T. Joshua, head of the Peoples' Political Party (PPP), who occupies one of the two elected seats won by his party in the 1974 election, opposed that view, claiming that SVLP had joined PPP to win the last election. He charged the Premier with having adopted a "unilateral approach to the vital question of independence", adding that PPP was not in favour of independence for St. Vincent without holding a referendum or general election. Mr. James F. Mitchell, a member of the House, who originally belonged to a break-away faction of PPP, and later formed his own party known as the New Democratic Party (NDP), shared Mr. Joshua's views on the question of independence. Despite the protests of the two opposition parties, the House adopted the draft resolution, thus making way for independence talks between the Governments of the United Kingdom and St. Vincent scheduled to be held at London in September.

(a) Opposition parties' writ

35. On 11 September, Messrs. Joshua and Mitchell were reported to have filed a writ in the High Court of St. Vincent against the two Governments. They claimed that the resolution referred to above was ultra vires, null and void as it was not in conformity with the West Indies Act, 1967; and that Mr. Rowlands was neither legally empowered nor competent in contemplation of law to hold or convene a constitutional conference based on the resolution.

36. On 22 January 1979, after listening to arguments put forward by the two sides, Judge Eardley Glasgow reserved judgement without indicating when he would hand down his decision. Subsequently, on 27 March, he delivered his judgement, saying that the opposition parties' complaints were "frivolous and vexatious and an abuse of the process of the courts". In ordering that the case be struck out, the Judge declared that no resolution was needed to enable the United Kingdom Government to terminate its association with the State of St. Vincent, and that "the West Indies Act of 1967 could serve no useful purpose".

(b) Constitutional conference of 1978

37. A conference on the St. Vincent constitution, presided over by Mr. Rowlands, was held at London from 18 to 21 September 1978. The five-member delegation from the Territory led by Mr. Cato did not include members of the opposition parties represented in the House of Assembly. In explaining its decision not to attend the conference, PPP accused the Premier of pressing for unilateral independence for St. Vincent and ignoring political unity. According to Mr. Mitchell, his party was dissatisfied with the manner in which SVLP was handling the independence issue, and was waiting for a hearing before the High Court of the writ referred to in paragraph 35 above.

38. At the conference, Mr. Cato stated that everyone in St. Vincent wanted to move forward to independence. This imposed on the United Kingdom a moral compulsion to find the easiest and simplest way of complying with the "clearly expressed wishes of the people of St. Vincent". Mr. Cato added that the Territory's ties and friendship with the United Kingdom were not being brought into question.

39. The communiqué issued at the close of the conference contained the following points:

(a) Messrs. Rowlands and Cato had signed an agreed report on the conference which had been convened by Mr. Rowlands in response to a request from the St. Vincent Government. The St. Vincent Government had represented that it wished to carry out the mandate given to it at the last general election to terminate the status of association during its present term of office.

(b) Invitations to the conference had been extended to all political parties represented in the House of Assembly. Both opposition parties had agreed to attend but later declined to do so (see also para. 37 above).

(c) The conference had considered detailed proposals for constitutional changes, including those submitted by various organizations and individuals in St. Vincent, many of which were reflected in the agreed conclusions of the conference.

(d) A draft independence constitution for St. Vincent would now be prepared on the basis of the findings of the conference and in due course would be published before being submitted for the approval of the St. Vincent House of Assembly.

40. Immediately following the conference, Mr. Cato expressed his complete satisfaction with its outcome. Every memorandum on independence submitted to the territorial Government prior to his departure for London had been "pursued and scrutinized" line by line at the conference. His delegation had made concessions on many points raised on the question of independence. Mr. Cato indicated that the Territory would move to independence by 22 January 1979. He expressed confidence that the deadline would be met, the only possible problem being "the course of events of the British Parliamentary programme".

41. On 25 October, six members of PPP headed by Mr. Joshua visited Barbados for discussions with Mr. Rowlands regarding St. Vincent's independence. According to press reports, the party claimed to have received "firm clarification" that no decision had been taken on the timing of independence at the recent London conference, and that the draft independence constitution under preparation would first have to be widely circulated and discussed in St. Vincent. Moreover, Mr. Rowlands had pointed out that his Government would have to be satisfied with the terms of the constitution before it could be submitted to the United Kingdom Parliament. A spokesman for PPP was quoted as having said that the party was not opposed to independence and in fact had consistently advocated national sovereignty as one of the goals and aspirations of the people of the Territory.

42. At a press conference held on 15 November, Mr. Cato stated that: "When we proposed the original date for independence, we had felt that certain legal work would have been done and we would have caught up with the British Parliamentary time-table. But in the light of the parliamentary recess in the United Kingdom and the difficulties with the law officers, I would not attempt to name a date at the moment". Mr. Cato denied that any pressure from opposition groups had brought about an alteration in his plans.

43. On 26 November, at Kingstown, the St. Vincent delegation, headed by Mr. Cato, met with a representative of the United Kingdom Government to discuss financial aid to be provided to the Territory upon its attainment of independence. During the discussions, it was agreed that such aid would amount to £10 million, including £5 million in grants and the remainder in loans spread over a period of 25 years. Mr. Cato said that the grants would take care of the Territory's immediate needs. Looking into the future, however, he hoped to obtain substantially more financial aid from the United Kingdom. According to Mr. Cato, it was also decided at the meeting that a new independence date should be set, since his proposed target date was considered impracticable.

44. On 9 February 1979, the House of Assembly approved the draft independence constitution for St. Vincent with two minor amendments (see below). Two weeks later, however, at a meeting with Mr. Rowlands, in St. Lucia, Mr. Mitchell raised the question of holding another constitutional conference on St. Vincent. In a letter dated 8 March, addressed to Mr. Cato, which was published in The Vincentian, a local newspaper, Mr. Mitchell said he had written to Mr. Rowlands "further requesting a properly constituted constitutional conference in London", and that "we owe the people of St. Vincent the best constitution our consciences can endorse". Mr. Mitchell therefore invited Mr. Cato's co-operation in supporting the above-mentioned request.

45. There is no information to indicate that Mr. Cato expressed any support in this regard. As a consequence, the United Kingdom Government announced on 28 June that it planned to grant independence to the Territory on 27 October, and that an independent St. Vincent would become a full member of the Commonwealth and of the United Nations.

(c) Draft independence constitution for St. Vincent

46. At a press conference on 15 November 1978 (see para. 42 above), Mr. Cato drew attention to certain clauses in the draft independence constitution for St. Vincent, especially those dealing with the enlarged Senate and the question of fundamental rights.

47. Asked about the choice of a monarchical system in preference to a republican one, Mr. Cato noted that "people in St. Vincent do not want to change the system". He stated that in all the memoranda received proposing a new constitution, there was only one recommendation that the Territory should become a republic. He further stated that "we will have the benefit and advice of years of experience of /certain Commonwealth countries/ which have retained the monarchical system after their independence". He continued: "We have had a long tradition and a well-established tie with the monarchy. But we will not be tied to anyone."

48. On 1 December, the Government announced that the draft in question was being made available to the public, and that political parties and other groups as well as individuals were invited to examine and discuss the document. In its announcement, the Government pointed out that the St. Vincent's National Independence Committee (NIC), formed by various local organizations in 1978, had set up a People's Independence Commission to promote full public discussion of the draft and to invite views on the question of independence.

49. Subsequently, NIC requested that the preamble in the draft should in particular define the tasks of a State, outline its fundamental beliefs and provide some vision of the future. It also called for a republican form of government.

50. On 9 February 1979, after a day and a half of debate, the House of Assembly approved the draft independence constitution for the Territory with two minor amendments. One would make the official name of the proposed new State "St. Vincent and the Grenadines". The other, submitted by NIC, would allow ministers of religion to become senators.

51. During the debate, both Mr. Joshua and Mr. Mitchell recommended a new constitutional conference to examine the Territory's constitutional problems, as well as a referendum or general election to decide the independence issue (see also para. 34 above). The House rejected both proposals. Subsequently, Mr. Mitchell made further unsuccessful attempts to win the support of Mr. Rowlands and Mr. Cato for his proposal concerning the holding of the new conference (see paras. 44-45 above).

C. External relations

52. The three Associated States are members of CARICOM and its associate institutions. The World Bank and, among others, the Caribbean Development Bank (CDB), an associate institution of CARICOM, sponsored the Conference on Economic Development in the Caribbean held at Washington, D.C. on 14 and 15 December 1977. g/ The purpose of the conference was to review the economic development needs of the region and to consider a proposal for the organization of a Caribbean Group for Co-operation in Economic Development. After the approval by the conference of this proposal, the Caribbean Group was established to co-ordinate and strengthen external assistance for Caribbean countries, including the Associated States. At its 1st meeting, which took place from 19 to 24 June 1978 in Washington, D.C., the Group reached two important consensuses: one on the establishment of the Caribbean Development Facility (CDF) and the other on the formation of the Technical Assistance Steering Committee (TASC). Additional information concerning the recent activities of the Group are set out later in the present paper.

Organization of Eastern Caribbean States

53. At a meeting held at Castries, St. Lucia, in May 1979 (see para. 14 above), the main decision of the Council of Ministers of the West Indies Associated States (another associate institution of CARICOM) was the adoption on 16 May of a resolution whereby it decided to convert the Council into the Organization of Eastern Caribbean States (OECS).

54. In the preamble of its resolution, the Council, among other things, recognized that, since its establishment, significant constitutional and other changes had taken place in the region, and realized that new mechanisms were required for the achievement of economic and social development for the peoples of the member States. It therefore resolved that a treaty establishing OECS be agreed to in principle and that the member Governments consider bringing the treaty into force as early as possible, preferably not later than 30 June 1979.

g/ Ibid., paras. 4, 75, 106 and 120-126.

55. The aim of OECS as set out in the proposed treaty would be:

"(a) To promote co-operation among the member States and at the regional and international levels having due regard to the Treaty establishing the Caribbean Community and the Charter of the United Nations;

"(b) To promote unity and solidarity among the member States and to defend their sovereignty, territorial integrity and independence;

"(c) To assist the member States in the performance of their obligations under international law as the standard of conduct of States in their reciprocal relations;

"(d) To achieve the fullest possible co-ordination of the foreign policies within the respective competences of the member States; to seek to adopt as far as possible common positions on all international issues; and to establish and maintain joint overseas missions and representation in the pursuit of their international relations with other States and international organizations;

"(e) To pursue the said purposes through its respective institutions by discussion of questions of common concern and by agreement and common action".

56. The treaty would establish the following four institutions:

(a) An authority of heads of Government, which would be the supreme policy-making institution of OECS and would be responsible for concluding agreements with international organizations or third world countries. It would meet at least twice a year and in extraordinary session when necessary.

(b) A foreign affairs committee, which would be responsible for developing the foreign policy of OECS, acting in the international sphere through a commissioner-general with the rank of cabinet minister.

(c) An economic affairs committee, which would take over the functions entrusted to the Council under the East Caribbean Common Market Treaty.

(d) A central secretariat having responsibility for general administration of OECS and headed by a secretary-general reporting to the commissioner-general and through him to the authority.

There would also be provisions relating to the annual budget and the procedure for the settlement of any dispute between member States over the interpretation and application of the treaty.

57. The new Organization of Eastern Caribbean States (OECS) was established in June 1979.

Other developments

58. At a meeting held on 20 March 1979 in Antigua, the above-mentioned Council agreed to set up a security force for six Eastern Caribbean countries, including the Associated States. According to the communiqué issued at the conclusion of the meeting, the security force should "preserve and protect the rule of law, protect the constitutional integrity of the States against armed revolution and

protect any society that is threatened". The communiqué did not reveal how the agreement would be implemented.

59. At about the same time, three CARICOM countries (Barbados, St. Lucia and St. Vincent) announced plans to create a joint coast guard service to patrol the coasts, assist in fisheries protection and prevent smuggling. In June, they were studying a report on the matter recently submitted by a team of experts from the United Kingdom. The United States Government made an allocation of \$US 60,000 towards military training for the coast guard, bearing in mind that the States in the area had discussed regional security co-operation.

60. On 30 April, the Commonwealth Secretariat and the Barbados Government initiated a five-week training programme for 20 junior diplomats of Eastern Caribbean countries. The content of the training course included management and administration in the foreign service, establishment of overseas missions, formulation and decision-making in foreign policy, and talks on every international and regional organization relevant to the Caribbean such as CARICOM, CDB, the European Community, the Inter-American Development Bank (IDB) and the Organization of American States (OAS).

61. On 3 June, Mr. Lester Bird, the Deputy Premier of Antigua, was reported to have said that OECS, which was expected to come into being in that month, would co-ordinate a joint position of the less developed members of CARICOM and would thus result in a smoother operation of that body. He particularly commented that the grouping would function as a foreign ministry for those countries, and that "it will maintain embassies and high commissions in foreign capitals and will appoint missions to international organizations such as the United Nations". He believed, however, that "each member State will still be able to function as a sovereign State in any international forum".

3. ECONOMIC CONDITIONS h/

A. General

62. The economies of the Associated States are based largely on agricultural exports, construction, tourism and government expenditures, which in turn depend almost entirely on external aid to cover capital expenditure and recurrent budgetary deficits. The manufacturing and distribution sectors are small-scale and there is an absence of commercial mineral deposits.

63. The over-all economic situation of the English-speaking Caribbean region improved slightly during 1978, although most of the unfavourable conditions experienced during 1977 persisted. Agricultural production remained depressed despite higher prices for major export crops. Efforts at diversifying the industrial base, and the implementation of accelerated programmes to promote exports had little impact on production in the manufacturing sector. The tourism sector recorded substantial gains, however.

h/ The information contained in this section has been derived from published reports and from information taken from the Caribbean Development Bank: Annual Report 1978, Barbados.

64. There was some improvement in foreign exchange earnings, although the external position of almost all the countries in the region continued to be a matter of concern. For the region as a whole, although export prices of some major commodities were sufficiently high during 1978 to more than compensate for the reduced volume of exports, gains in foreign exchange earnings were eroded by the relatively higher prices of imported goods which accelerated during that year, resulting in an adverse balance of trade. The external imbalance was further exacerbated by increased interest payments on a larger foreign debt.

65. Most countries in the region sought to improve their economic and financial position by introducing restrictive fiscal and monetary policies aimed at reducing government budgetary deficits, curtailing consumer spending and mobilizing domestic resources for investment. At the same time, Governments also took measures to minimize the effects of inflation and thereby improve the standard of living of the lower-paid sections of the population.

66. According to the Government of St. Vincent, the volcanic eruptions which occurred during April 1979 caused widespread damages to its economy (see paras. 2-4 above).

67. At its meeting held at Washington, D.C., from 4 to 9 June 1979, the Caribbean Group for Co-operation in Economic Development noted that all the Caribbean countries except Trinidad and Tobago were net importers of energy, mostly in the form of petroleum; that the bill for imported petroleum could represent 25 per cent of the projected foreign exchange earnings of those countries by 1983; that the region imported food at an average annual per capita cost of \$US 80, one of the highest such bills in the world; and that unemployment ranged from 20 to 40 per cent in the region. It therefore took action to deal with those and other problems (see paras. 107-112 below).

B. Agriculture

68. During 1978, production of the main agricultural commodities decreased within the Commonwealth Caribbean. Unfavourable weather conditions, industrial disputes, the unavailability, or escalating cost, of basic inputs and slow expansion of demand for agricultural products by the region's major trading partners combined to limit growth in this important economic sector.

Sugar

69. St. Kitts-Nevis-Anguilla is, by world standards, a minor producer and exporter of sugar; its sugar crop is mainly grown on St. Kitts. The Governments of Antigua and St. Vincent have sought to revive their respective sugar industries.

70. On 13 July 1978, the Minister of Agriculture of Antigua met with representatives of CDB to discuss the question of financing for the revival of the Territory's sugar industry, which had been quiescent since 1971. About three months later, Mr. Lester Bird announced plans to reactivate the industry, pointing out that Antigua spent more than \$EC 5 million i/ annually on imported sugar and

i/ The local currency is the East Caribbean dollar (\$EC). In July 1976, the East Caribbean Currency Authority (ECCA) decided to sever the link with the pound sterling and to link the dollar to the United States dollar. Parity was established at the rate of \$EC 2.70 to \$US 1.00.

other related products. On 3 December, he said that negotiations between the territorial Government and a Barbadian concern for the provision of equipment to build a sugar factory in Antigua were in their final stages. According to the Ministry of Agriculture, by the end of 1978, about 365 hectares were expected to be under sugar cane, about half of which would be planted by small farmers. On 25 April 1979, CDB approved a loan of \$US 3 million for the Antiguan sugar industry.

71. In December 1975, the Ministry of Trade and Agriculture of St. Vincent recommended the reintroduction of sugar in the Territory in order to meet local requirements, and the allocation of 600 hectares of land for sugar-cane followed by another 600 hectares by 1982. After accepting the recommendations, the territorial Government established several nurseries. In May 1978, the Government obtained a loan of \$TT 1 million j/ from the Government of Trinidad and Tobago to finance the purchase of a sugar factory in Trinidad and later signed a contract with a Jamaican firm for the dismantling and shipping of the factory to St. Vincent. On 16 June 1979, the Trinidad and Tobago Government announced that it had agreed to make a further loan of \$US 1.5 million to St. Vincent to assist it in re-establishing its sugar industry.

72. In 1977/78, sugar production in St. Kitts amounted to 39,616 metric tons (35,333 metric tons in the previous year). Despite an attack of smut disease during that year, the 1978/79 crop was officially estimated to be between 42,500 and 45,500 metric tons.

73. In 1977/78, world production of sugar was estimated at 92.3 million metric tons (86.7 million metric tons in the previous year). Stocks of raw sugar continued to build up as production outstripped consumption by 5.2 million metric tons, bringing total stock accumulation to an estimated 30.6 million metric tons, or 35 per cent of current consumption. As a result, sugar prices on the world market remained low. It was believed that unless production could be reduced or consumption increased appreciably in 1978/79, the excessively high stocks on hand would continue to depress world prices and would consequently affect any price arrangements being negotiated.

74. As previously noted, k/ a five-year International Sugar Agreement came into force on 1 January 1978, whereby an export quota of 71,120 metric tons of raw sugar was assigned to St. Kitts. Up to the end of the year, however, the United States had not ratified the Agreement. Without the participation of the United States, the Agreement was considered to be ineffective, and the International Sugar Organization extended the period for its ratification to 30 June 1979.

Bananas

75. Prior to the recent volcanic eruptions in St. Vincent, bananas had dominated the agricultural sector of the local economy, accounting for 58 per cent of domestic exports and providing for direct or indirect employment for some 21,000 Vincentians (about 20 per cent of the total population).

j/ Under current rates of exchange, \$TT 2.40 equals \$US 1.00.

k/ Official Records of the General Assembly, Thirty-third Session, Supplement No. 23 (A/33/23/Rev.1), vol. IV, chap. XXX, annex, para. 87.

76. During 1978, St. Vincent exported to the United Kingdom a total of 30,414 metric tons of bananas (26,774 metric tons in the previous year) at a value of \$EC 19.6 million. According to Premier Cato, the volcanic ash from the eruptions had destroyed 50 to 60 per cent of the 1978/79 crop, resulting in a proportional reduction in banana exports. In May 1979, the Canadian International Development Agency (CIDA) sent an expert to the Territory to discuss the situation with the Ministry of Agriculture and the St. Vincent Banana Growers' Association. During the same month, the Association put into operation a scheme to assist banana farmers, which was expected to cost \$EC 98,000 a week during an initial four-week period, after which the scheme would be reviewed. Although the Association was also formulating plans for rehabilitation of the industry, it was reported that because of the magnitude of the damage, the Association would have to depend heavily on external aid. In the past, it had received financial and technical assistance from Canada and the United Kingdom.

77. Owing to a deterioration in the quality of the fruit, the Association decided in July to suspend its exports. Faced with growing competition since the entry of the United Kingdom into the European Economic Community (EEC), the industry was concerned about losing its protected share of the United Kingdom banana market.

Coconuts

78. Coconuts are grown in St. Vincent. Soon after the establishment of CARICOM in July 1973, arrangements were made for the intraregional marketing of certain selected agricultural commodities. Under these arrangements, coconut oil and copra produced in the Territory during recent years have been exported to other CARICOM countries. In 1978/79, the prices for the two commodities were increased by 10 per cent to offset the decreasing profits of the three regional suppliers (Dominica, St. Lucia and St. Vincent). Mr. Cato reported that St. Vincent coconut industry had also suffered a set-back from the effects of the fall-out of volcanic ash during the recent eruptions of Mount Soufrière.

Arrowroot

79. In the CARICOM area, St. Vincent is the sole exporter of arrowroot, whose rhizome produces the world's purest starch. Production increased from 725,760 kilograms in 1976/77 to 816,480 kilograms the following year, while the price rose by about 4 per cent during the period. In June 1978, construction began on a new arrowroot factory at an estimated cost of \$EC 450,000, which was to be met by a loan from CDB. Upon its completion, there will be six such factories operating in the Territory. Following the volcanic eruptions, however, work on the new factory halted. Mr. Cato reported that because of the damage caused by the eruptions, 48,000 baskets of reaped rhizomes remained unprocessed and that harvesting of 115 of the 400 hectares of land under arrowroot had not been carried out.

C. Fisheries

80. In 1978, Antigua exported fishery products amounting to 226,800 kilograms (170,000 kilograms in the previous year). In January 1979, the territorial Government applied to CDB for a loan of more than \$EC 8 million to finance a fishing project; the application was approved four months later. The Government planned to set up a statutory corporation to build a processing plant (with the capacity to handle 2,500 metric tons of fish a year) and a fleet of 15 vessels.

D. Tourism

81. The year 1978 was a good one for tourism in the Caribbean, including the Associated States. During the year, tourist arrivals by air were as follows (percentage gains over 1977 in parentheses): Antigua, 75,078 (11.4 per cent); St. Kitts, 26,970 (77.9 per cent); and St. Vincent, 33,653 (85.0 per cent).

82. According to the Antigua Tourist Board, the industry's performance in 1978 showed marked improvement over the previous two years, a trend which was expected to continue into 1979. In December 1978, the territorial Government, recognizing the need to expand air communications (particularly between the Territory and North America, the origin of most tourists), discussed with the British West Indian Airways (BWIA) the possibility of increasing the number of flights to Antigua. The Board stated that there were also signs of improved business from Europe and that British Airways (BA) had recently increased its seating capacity to the Territory by 42 per cent. On 29 March 1979, it was announced that the United Kingdom Government had agreed to provide financial and technical assistance (including a grant of £155,000) to develop tourism in Antigua.

83. On 11 June 1978, Mr. Southwell, then Premier of St. Kitts-Nevis-Anguilla, announced that his Government had decided to increase the total number of rooms at its Royal St. Kitts Hotel on Frigate Bay from 100 to 150, and that service facilities at the hotel would also be expanded. At a meeting on 6 February 1979, he informed the House of Assembly of an agreement recently signed between the Government and Antilles Airlines concerning the provision of a new, weekly service linking the Territory with the United States mainland. Speaking during a ceremony at Golden Rock Airport in St. Kitts on 4 May to mark the inaugural flight, Mr. Southwell said that the new air service would make travelling between the Territory and the United States easier and more attractive, thus greatly enhancing the prospects of the local tourist industry.

84. In November 1978, it was announced that the British Development Division in the Caribbean had approved a grant of \$270,000 for the purchase by the St. Vincent Government of a 17-passenger aircraft to supplement the services provided by Leeward Islands Air Transport (LIAT) (see para. 85 below). A further step in the improvement of air transportation in the Eastern Caribbean was the preparations being made for the opening in 1979 of the Arnos Vale Airport on St. Vincent to night landings by small and medium aircraft. Towards the end of May 1979, the Department of Tourism was making efforts to improve St. Vincent's image abroad, following adverse publicity about the recent volcanic eruptions.

85. LIAT became a regional carrier in 1974, when 11 member countries of CARICOM (including the Associated States) took it over from the Courtline Holiday Group of the United Kingdom. On 25 April 1979, CDB approved a loan of \$US 4.6 million to LIAT for the purchase of a new Avro aircraft. At the annual meeting of CARICOM held on 29 June in Trinidad and Tobago, the representatives of the member countries noted that LIAT had improved its financial and operating performances in 1976/77 and 1977/78, and hoped that the airline would in the near future become a commercially viable enterprise, continuing to provide a vital communications link within the Caribbean.

E. Manufacturing

86. Each of the Associated States has a number of small industrial concerns producing both for local consumption and export. CDB has continued to assist those States in accelerating industrial development, and in 1978 it approved five loans totalling \$US 127,000 to Antigua and St. Vincent under the Small Industry Credit Programme and the Agricultural and Industrial Credit Programme.

87. Between April 1976 and May 1979, new factories were established and others were being set up to manufacture: (a) ophthalmic lenses, garments, carpets and biscuits in Antigua; (b) rum, garments, shoes, sportswear, small motors and generators in St. Kitts-Nevis-Anguilla; and (c) dairy products in St. Vincent.

88. On 5 March 1979, Mr. Lester Bird, the Deputy Premier of Antigua, told reporters that the industrial sector of the Territory's economy had made significant progress over the period 1976-1978, despite adverse international economic conditions. In that period, nine new industries had been formed. The combined earnings of the 14 factories in the industrial estates had increased from \$EC 3 million in 1975 to \$EC 17 million in 1978. The Deputy Premier also said that the territorial Government would continue its industrial expansion programme.

89. In July 1978, the then Premier of St. Kitts-Nevis-Anguilla was reported to have said that all investors, who were welcome in the Territory, could have a tax holiday, import building materials free of duty and repatriate profits, if they initiated manufacturing enterprises. In April 1979, he opened National Investments, Ltd., a new company established to help finance light industrial and other small business undertakings.

90. In May 1979, the government-owned St. Vincent Development Corporation reported that it had spent \$EC 2.6 million on industrial establishments and training.

F. Infrastructure

91. Among the more important infrastructural developments occurring in Antigua between August 1978 and January 1979 were the following: (a) the carrying-out of soil tests at the site for a new dam (with a capacity of 3.6 million litres) to be built in the south-western part of the Territory with financial assistance (totalling \$EC 13.5 million) from the European Development Fund (EDF) set up by EEC; (b) provision by the United States Government of a navigational aid system for Coolidge International Airport; (c) approval by the Trinidad and Tobago Government of aid amounting to \$TT 3.6 million for upgrading the Territory's electric supply system; and (d) commencement of construction work on the improvement and expansion of the above-mentioned airport with a grant of \$EC 13.8 million from the Canadian Government.

92. In early 1979, the Government of St. Kitts-Nevis-Anguilla announced that it had decided to spend \$EC 19 million (largely obtained from CDB) on the Basseterre deep-water-port project and another \$EC 5 million (from the Canadian Government) on a new terminal building at Golden Rock Airport. It added that EDF would allocate a total of \$EC 4 million towards improving the road system for St. Kitts and that funds from the Canadian Government and CDB amounting to nearly \$EC 8 million would be used to finance a water development scheme for both that island and Nevis.

93. In 1978, the United Kingdom made available to St. Vincent £1.4 million in aid to help meet its development needs (see para. 98 below). Part of the funds were reported to have been used for further development of the economic infrastructure. According to Mr. Cato, upon its accession to independence, the Territory would receive United Kingdom aid amounting to £10 million, including £5 million in grants and the rest in loans to be spread over 25 years (see para. 43 above). The Premier added that his Government had a list of projects which he did not specify and which would normally include those for basic facilities. He believed that the grants would take care of St. Vincent's immediate needs, but hoped that it would obtain substantially more financial aid in the future.

94. According to Mr. Cato, the cost of the damage caused by the recent eruptions of Mount Soufrière to private dwellings, roads, schools, community halls and other public buildings was estimated at over \$EC 14 million. A major and immediate problem confronting the Territory, which had been experiencing drought conditions at the time of the eruptions, was the water shortage brought about by the pollution of the rivers, streams and reservoirs.

G. Public finance

95. The Government of each Territory depends almost entirely on external aid to cover capital expenditure and recurrent budgetary deficits (see para. 62 above). In 1978, each territorial Government introduced measures to strengthen its financial position, mainly by increasing current taxes. Other measures adopted were designed to improve the position of the taxpayers or to raise benefits for pensioners and others.

96. The Associated States have received financial and technical assistance on a bilateral or multilateral basis from certain external sources, including the administering Power; the Governments of Canada, Trinidad and Tobago, the United States and Venezuela; CARICOM and its associate institutions, especially CDB; EEC; and organizations within the United Nations system, notably the United Nations Development Programme (UNDP).

97. Moreover, as mentioned in paragraph 52 above, the Caribbean Group for Co-operation in Economic Development decided in June 1978 to create CDF as a mechanism for channelling foreign resources to help finance essential imports and to offer supplementary financing, mainly for local costs, to assist in the execution of development programmes and projects. In addition, it formed TASC, under the chairmanship of UNDP, to promote technical assistance and to prepare regional programmes for the Caribbean countries (see also paras. 104-112 below).

98. The total amount of aid given by the United Kingdom Government to each of the three Associated States in 1978 was as follows: Antigua £734,000; St. Kitts-Nevis-Anguilla, \$1.9 million; and St. Vincent £1.4 million. In the latter case, the United Kingdom Government provided relief aid totalling more than £100,000 immediately following the recent volcanic eruptions. In May 1979, it was also considering with the St. Vincent Government the longer term problems of rehabilitation. Upon its attainment of independence later in the year, the Territory would receive aid totalling £10 million from the United Kingdom (see paras. 43, 45 and 93 above).

99. CDB continued to assist member countries, particularly the less developed countries, in facing their financial difficulties during 1978. Excluding loans from CDF, 77 per cent (\$US 24.0 million) of total loan approvals amounting to \$US 31.2 million went to the less developed countries. Of all disbursements, amounting to \$US 25.3 million (including CDF disbursements to the more developed countries), the less developed countries received 54.2 per cent (\$US 13.7 million, including \$US 13.1 million from soft funds). In April 1979, CDB approved new loans totalling \$US 16.8 million to finance projects proposed by Antigua (\$US 6.2 million) and LIAT (\$US 4.6 million) among others (see paras. 70, 80 and 85 above).

100. During recent years, the Government of Trinidad and Tobago has made funds available at low interest to other Caribbean countries. In February 1978, it set up the Caribbean Aid Council to provide financial and technical assistance to those countries. In June 1979, a delegation from Antigua led by Mr. Lester Bird visited Trinidad and Tobago to hold discussions with its Government regarding a loan of \$TTT 136 million in addition to the \$TTT 3.6 million in aid given to the Territory during 1978 (see para. 91 above). In the course of discussions, an agreement was reached in principle concerning agro-industrial, air communications and tourism development with the objective of helping Antigua achieve financial viability within a five-year period envisaged by the Caribbean Group (see below).

101. In May 1979, after the eruptions of Mount Soufrière, the Government of Trinidad and Tobago provided St. Vincent with relief aid totalling \$US 800,000. In the following month, the Trinidad and Tobago Government also announced that it had agreed to make a new loan of \$US 1.5 million to assist the Territory in resuscitating its sugar industry, in addition to the loan of \$TTT 1 million granted during 1978 (see para. 71 above).

102. For the period 1977-1981, UNDP assigned to the Associated States an adjusted indicative planning figure of \$US 3 million, including \$US 300,000 expected to be disbursed in 1978 and \$US 731,000 budgeted for 1979. In addition, the Associated States have participated in the multi-island and regional projects of UNDP. 1/

103. On 1 June 1979, before leaving Antigua to attend the second annual meeting of the Caribbean Group (see para. 107 below), Mr. Lester Bird said that in recent years, the Eastern Caribbean Governments had had difficulty in balancing their respective budgets. Antigua would therefore seek support for the establishment of some mechanism under which the donor countries would provide those Governments with budgetary aid, thus enabling them to finance certain projects.

H. Caribbean economic integration

104. A basic objective of CARICOM, which was established by the Treaty of Chaguaramus of 1973, is to promote the economic integration of its member countries. A significant development affecting the regional integration movement was the organization of the Caribbean Group.

1/ See also Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 23 (A/34/23/Rev.1), vol. III, chap. XXIII, annex, para. 68.

105. As stated earlier, at its first meeting, held in June 1978, the Caribbean Group formed CDF and TASC to help a large number of countries in the region to meet their need for external assistance. The purpose of CDF is to help recipient countries during an adjustment period of no more than five years' duration at a time when special external assistance might be required to maintain acceptable levels of development and employment while economic policies were being directed towards achieving financial stability. At the meeting, 10 donor countries and international agencies indicated that they would provide approximately \$US 112 million through CDF during the year beginning 1 July 1978.

106. In accordance with the decision taken at the meeting, TASC organized technical meetings on agriculture, industry, transportation and tourism of the Caribbean economy, and reached a series of conclusions and decisions thereon. Among other things, it noted the need to ensure that, within the framework of CDF, the less developed countries would have access to some of the financial sources in 1979, and subsequently, to the pool of experts and/or common services, should the Eastern Caribbean Governments so desire. m/

Second annual meeting of the Caribbean Group

107. At its second annual meeting, held in early June 1979 under the chairmanship of the World Bank, the Caribbean Group reviewed the activities of its first year. For the first time, Brazil joined with 12 other countries in participating in the meeting as donors. To deal with the economic problems confronting the region (see also para. 67 above), some of the donor countries announced pledges totalling \$US 183 million for CDF-type financing. Disbursements from those pledges during the year beginning July 1979, plus previously announced assistance, were expected to reach \$US 227 million. Additional pledges during the year were to raise the total to approximately \$US 276 million (compared with an estimated \$US 186 million for the first year of operation of CDF ending 30 June 1979).

108. At the meeting, the Caribbean Group also decided: (a) to provide financing for a number of the 400 national investment projects formulated for the less-developed countries; (b) to undertake new initiatives in regional co-operation; and (c) to support the continuation of the activities of TASC. A separate subgroup discussed, inter alia, three specific regional schemes: food aid, a revolving fund for agricultural inputs and a basic needs trust fund. It was suggested that an ad hoc meeting of donors and recipients take place in due course to complete final details and financing for those schemes, which were considered to be appropriate to the urgent needs of the countries (see chap. XXIX of the present report, annex, paras. 75-80 (pp. 138-139 above); see also paras. 111 and 116 below).

109. At the same meeting, the Eastern Caribbean countries also received pledges of \$US 8 million to set up the pool of experts (see para. 106 above). The experts would be recruited within the Caribbean area and outside, when necessary, and would provide essential services which those countries now lacked in food production, financing planning, industrial development, statistics, etc. The common services would be rendered within the framework of the newly constituted OECS (see paras. 53-57 above).

m/ Ibid., paras. 69-77.

110. In his statement made before the meeting on 1 June 1979 (see para. 103 above), Mr. Lester Bird, Deputy Premier of Antigua, had said that he expected the pool of experts to be based in the Territory and to help identify projects for the Eastern Caribbean and give technical and other assistance for their implementation. So far, some 40 projects had been identified for the area.

111. Speaking on behalf of CARICOM countries at the 1979 meeting of the Group, Mr. Henry Forde, Minister of External Affairs of Barbados, was reported to have stated that although \$US 101.5 million had been identified in June 1978 as the amount required to meet the needs of those countries for the first year of operation of CDF, pledges had totalled only \$US 82.4 million. Of the pledges, only 23 per cent had reached the recipient countries between July and December. Mr. Forde also proposed the establishment of a basic needs trust fund. Under the proposed fund, he suggested, special aid from donors should be made available to recipients through CDB on a "grant basis". The fund should not only finance new basic needs facilities required for improving primary education, health care and the road and water-supply systems, but also "address itself to the urgent needs for meeting deferred maintenance of these facilities".

112. The representative of the United States said that his Government planned to provide from \$US 78 million to \$US 82 million in CDF-type assistance during 1979/80. He said that for the most part, the negative aspects apparent early in the meeting had been overcome, in particular a feeling among the Eastern Caribbean countries that they had not received sufficient attention or a fair share of aid. There had been "widespread interest" in the recommendations of the World Bank concerning regional projects, as well as an increasing acceptance of the concept of regional co-operation as opposed to purely national development programmes and bilateral assistance channels. The outlook for the Caribbean Group in the coming years was "fairly bright".

Other developments

113. Four of the donor countries, the Federal Republic of Germany, France, the Netherlands and the United Kingdom, are also members of EEC. According to the Director-General of EEC, total development funds available to Caribbean countries as grants from EEC for the period 1978-1981 amount to approximately \$US 170 million.

114. During 1978, negotiations between EEC and certain African, Caribbean and Pacific (ACP) countries began on a successor agreement to the Lomé Convention which is due to expire in 1980 (see A/AC.176/7). Also during 1978, CARICOM countries approved proposals for a regional common position in all major areas under negotiation such as trade co-operation, financial and technical assistance, stabilization of export earnings, industrial development, and trade in sugar, bananas and rum.

115. On 20 January 1979, representatives of Canada, which is also a donor to CDF, and the CARICOM countries met in Jamaica to sign an agreement providing for financial, technical, trade and industrial co-operation between the two parties. n/

n/ Ibid., paras. 78-79.

116. During a visit to Antigua on 20 June, Ms. Sally Shelton, United States Ambassador to Barbados and the Eastern Caribbean, told reporters that her Government would set up a basic needs trust fund designed to make money quickly available to the less developed countries of CARICOM in order to accelerate infrastructural development and generate employment. She added that the fund, into which the United States Government would pay approximately \$US 40 million, would be administered by CDB.

117. Three days later, the United States and the Eastern Caribbean Common Market (ECCM) (whose Council of Ministers had been recognized as an associate institution of CARICOM) signed an agreement whereby the United States Agency for International Development (USAID), would provide a total of \$US 4.1 million to be used during the period 1980-1983 in upgrading the skills of employees in the public sector in the seven ECCM countries, including the Associated States. Under the training programme, the ECCM secretariat will work with the Governments of the seven countries to develop courses for all levels of the public service and will include seminars for top management and senior level officials as well as training workshops at the national and regional levels.

118. The agreement was signed on behalf of the United States Government by Ms. Shelton and Mr. William Wheeler, the Caribbean representative of USAID.

119. At the signing ceremony, Mr. Wheeler stated that the public services in the ECCM countries were faced with enormous challenges, with independence increasing the responsibilities of Governments and with world economic conditions in a state of flux. He considered that the training of public sector employees was crucial at the present stage, noting that despite the complex problems facing them, the ministries of ECCM countries were seriously understaffed.

120. Ms. Shelton said that the project would enable the Eastern Caribbean Governments to provide additional education, health and other basic services for their nationals with the limited amount of tax revenues they had available. She added that strengthening their public services would also increase the ability of those Governments to plan and implement sound investment projects and thus take better advantage of the financial resources provided by foreign countries through CDB and other channels.

4. SOCIAL CONDITIONS

A. Labour

121. In recent years, unemployment has been a pressing problem for the three Territories. Each of the territorial Governments has given high priority to the creation of jobs through development of a healthy and viable economy. Intensified regional co-operation as well as international assistance is playing an active part in solving the problem of unemployment. It is believed that the prospects for a significant improvement in the unemployment situation of the three Territories will be enhanced, subject to disbursement of the pledges made to them for the implementation of their projects.

B. Public health

122. During the period under review, the Associated States and other CARICOM countries intensified their co-operative efforts to improve the public health situation. In this regard, they continued to receive support from foreign countries and international organizations.
123. Representatives of the Associated States attended the Fourth Conference of Health Ministers of CARICOM countries, held in St. Lucia from 26 to 28 July 1978. The Conference adopted a total of 36 resolutions, the most important being concerned with: (a) the development of health management in the less developed countries and Barbados; (b) changes in medical education; (c) nursing education; (d) the training of allied health personnel; (e) community participation; (f) mental health services in the less developed countries; (g) an expanded programme of immunization in the Caribbean; (h) safety of food; (i) dental health strategy; (j) Caribbean epidemiological surveillance; and (k) environmental health strategy.
124. On 30 August in Barbados, the CARICOM secretariat and the United States Government signed an agreement by which the latter would make a grant of \$US 1.8 million to finance a three-year training project in basic health management for the Eastern Caribbean. The project will primarily provide: (a) training for about 700 persons at all levels in basic health management; (b) specialized technical assistance in health planning; (c) development of information systems; and (d) project designs. The fundamental purpose of the project is to strengthen management capability in all categories of health staff to deliver health care to all the people, using limited resources and giving satisfaction to those served, while maintaining the morale of those rendering the service.
125. As noted above (see paras. 117-120), the agreement between the United States and the ECCM countries for the establishment of a project to upgrade the skills of public sector employees will enable the seven Eastern Caribbean Governments to provide additional health and other basic services to their peoples.
126. During the same month, the United Nations Environmental Programme (UNEP), in co-operation with the Economic Commission for Latin America (ECLA), initiated a project for sound environmental management in the Caribbean area, with headquarters in Trinidad and Tobago. The project, which involves more than 30 Caribbean and Latin American countries, will include the drawing-up of a plan of action for future activities in eight areas such as environmental health, natural disasters, etc. According to Mr. Trevor Boothe, the project co-ordinator, the final draft is expected to be presented in early 1980 for consideration by the Governments concerned. The plan will identify priority needs arising out of the development process of those countries and is intended to encourage their Governments, acting in co-operation with international agencies and organizations, to address those needs.
127. The Fifth Conference of Health Ministers of CARICOM countries was convened in Antigua from 10 to 12 July. Earlier, the CARICOM secretariat had indicated that at least six of the less developed countries had submitted proposals for discussion. The conference would consider seven items, the most important probably relating to the problem of health education and community participation in the region. For this, the ministers would study a regional programme which,

the secretariat believed, had become particularly urgent because of financial difficulties encountered by all the Caribbean countries and also because of the need for the peoples of CARICOM countries to become actively involved in formulating solutions to public health problems confronting the region.

128. The secretariat had also indicated that other topics to be discussed would include: (a) a management development project for the less developed countries and Barbados; (b) health information systems for CARICOM countries; (c) a proposal for the formation of the Caribbean environmental health institute in St. Lucia; (d) the findings of the seminar held during June in that country on regional disaster preparedness (see also para. 4 above); and (e) the CARICOM food policy aimed at curbing illness and waste resulting from food contamination in the region.

5. EDUCATIONAL CONDITIONS

129. Between July 1978 and April 1979, there were three important developments concerning the educational systems of the Associated States. First, the Antigua Government intended to discontinue the policy of grading secondary schools with a view to bringing all of them to the same level during the academic year 1978/79. Secondly, the Government of St. Kitts-Nevis-Anguilla decided to establish a college at an estimated cost of \$EC 1.7 million. The college, to be set up in 1979, would offer programmes at the tertiary but below full degree level in the areas of teacher training, technical education and first-year and second-year university courses in such areas as the medical sciences. Thirdly, a new medical college was opened in January 1979 at Kingstown, St. Vincent.

130. With regard to educational development in the Caribbean region, the Associated States have agreed to retain the regional character of the University of the West Indies and to recognize the Caribbean Examinations Council as an associate institution of CARICOM.

131. In June 1979, the Caribbean examination replaced the General Certificate of Education examination as planned. At present, the new examination deals with only five subjects (English, geography, history, integrated science and mathematics); it will be expanded to cover three more subjects (agriculture, business education and Spanish) by 1980 and the whole syllabus by 1983.

132. For higher education, students from the Territories have, in the past, attended the University of the West Indies, usually under government sponsorship. Faced with higher operating costs in recent years, the University has required the territorial Governments to increase substantially their annual contributions, which the Governments have found difficult to meet.

133. Taking into account the skilled manpower needs of certain Commonwealth countries in the Caribbean, including the Associated States, CDB set up a student loan scheme to help borrowers from those countries to continue pursuing further education. According to the annual report of CDB for 1978, cumulative loan approvals under the scheme increased by \$US 329,000 to \$US 2.8 million (including \$US 836,000 given directly to the Territories) during the year.

134. According to CDB, over-all activity under the scheme at the level of the executing agencies left much to be desired, with operational and managerial problems still afflicting the agencies. In addition, the cost of higher education

continued to soar to levels above the allowable subloan limits and the potential capacity of the sub-borrowers to repay. At the same time, stiffer immigration policies and a reduction in work and study opportunities once open to students from the Caribbean in metropolitan countries also retarded the flow of such students to pursue higher education extraregionally.

135. Furthermore, CDB states in its annual report that the Governments concerned continue to face fiscal problems and in many cases have "drastically" reduced their financing of the "economic cost" of students desirous of attending the regional university. Some potential students have also found difficulty in gaining admission to technical and vocational educational institutions in the more developed countries of CARICOM. Efforts by CDB to obtain counterpart grants from traditional aid donors to support the scheme have been unsuccessful as these donors have been experiencing their own financial difficulties.

136. By the end of 1978, there were 490 sub-borrowers (including 175 from the Territories) under the scheme, with subloan approvals by the executing agencies amounting to \$US 1.5 million (including \$US 633,000 to the 175 sub-borrowers). This represented an increase of 15 per cent in the number of sub-borrowers and 23 per cent in the number of approvals during the year.

137. According to press reports, CARICOM countries and the United Nations Educational, Scientific and Cultural Organization (UNESCO) were expected to sign in early April 1979 a memorandum of understanding covering areas of co-operation in education, science and culture.

138. Under an agreement signed in June, the United States will give assistance to the Eastern Caribbean Governments in establishing a project to enable them to provide more educational and other basic services to their peoples (see paras. 117-120 above).

CHAPTER XXXI *

GILBERT ISLANDS**

A. Consideration by the Special Committee

1. At its 1135th meeting on 9 February 1979, by adopting the suggestions put forward by the Chairman relating to the organization of its work (A/AC.109/L.1280 and Add.1), the Special Committee decided, *inter alia*, to refer the question of the Gilbert Islands to the Sub-Committee on Small Territories for consideration and report.
2. The Special Committee considered the item at its 1146th and 1147th meetings, on 21 and 22 June respectively.
3. In its consideration of the item, the Special Committee took into account the provisions of the relevant General Assembly resolutions, including in particular resolution 33/44 of 13 December 1978 on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. By paragraph 12 of that resolution, the Assembly requested the Special Committee, *inter alia*, "to continue to seek suitable means for the immediate and full implementation of General Assembly resolution 1514 (XV) in all Territories which have not yet attained independence and, in particular: ... to formulate specific proposals for the elimination of the remaining manifestations of colonialism and to report thereon to the General Assembly at its thirty-fourth session". The Special Committee also noted that the General Assembly had, in its decision 33/413 of 13 December 1978, deferred consideration of the question of the Gilbert Islands until its thirty-fourth session.
4. During its consideration of the Territory, the Special Committee had before it a working paper prepared by the Secretariat (see annex to the present chapter) containing information on developments concerning the Territory.
5. The representative of the United Kingdom of Great Britain and Northern Ireland, as the administering Power concerned, participated in the work of the Special Committee during its consideration of the item.
6. At the 1146th meeting, on 21 June, the Rapporteur of the Sub-Committee on Small Territories, in a statement to the Special Committee (A/AC.109/PV.1146), introduced the report of the Sub-Committee (A/AC.109/L.1307) containing an account of its consideration of the Territory.
7. At the 1147th meeting, on 22 June, the Special Committee adopted without objection the report of the Sub-Committee on Small Territories and endorsed the conclusions and recommendations contained therein (see para. 10 below).

* Previously issued as part of A/34/23/Add.8.

** The Gilbert Islands acceded to independence on 12 July 1979 as Kiribati.

8. At the same meeting, statements were made by the representative of the United Kingdom and by the Chairman (A/AC.109/PV.1147).

9. On 22 June, the text of the conclusions and recommendations was transmitted to the Permanent Representative of the United Kingdom to the United Nations for the attention of his Government.

B. Decision of the Special Committee

10. The text of the conclusions and recommendations concerning the Gilbert Islands adopted by the Special Committee at its 1147th meeting, on 22 June 1979, to which reference is made in paragraph 7 above, is reproduced below:

(1) The Special Committee notes with satisfaction that the Gilbert Islands will achieve independence on 12 July 1979, as the State of Kiribati, in accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV) of 14 December 1960.

(2) The Special Committee commends the administering Power for facilitating the attainment of independence of the peoples of the Gilbert Islands. It further expresses the hope that the future of all of the islands of the Territory will be resolved prior to its accession to independence, so that the Territory may move towards independence as a unified State.

(3) The Special Committee notes that, at the Constitutional Conference held at London in 1978, it was decided that the Territory should proceed to independence as constituted at present.

(4) The Special Committee, aware that the Constitutional Conference did not fully resolve all outstanding issues relating to Banaba, nevertheless welcomes the decision of the Conference to make provision for safeguarding the rights and interests of the Banaban community.

(5) The Special Committee considers that it is for the parties principal to resolve their differences and is of the view that a sympathetic appreciation of the rights of the parties involved will help to lead to a just and lasting solution.

(6) The Special Committee accordingly notes with interest the continuing efforts of the Government of the Gilbert Islands and the Banaban community to resolve their remaining differences prior to independence. In this regard it notes with appreciation the continuing contribution of the Prime Minister of Fiji.

(7) Concerning the economic future of the Territory, and in the light of the imminent exhaustion of the phosphate deposits on Banaba, the Special Committee reiterates the need for priority measures to continue to be taken to diversify the economy of the Gilbert Islands.

(8) The Special Committee notes with satisfaction the decision of the Government of the United Kingdom of Great Britain and Northern Ireland to provide in the period up to 31 December 1982, development aid up to

£15.5 million, special financial assistance totalling £5.3 million to support the budget and continuing support to the Government of Kiribati in the form of a technical co-operation programme. The Committee also welcomes the various other programmes of assistance being rendered by the Governments of Australia and New Zealand, and notes with satisfaction that the United Nations Development Programme has increased its assistance programme for the period 1977-1981.

(9) The Special Committee warmly congratulates the people and Government of the Gilbert Islands upon their decision to move to independence and wishes them peace and prosperity in their newly acquired status.

ANNEX*

Working paper prepared by the Secretariat

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* Previously issued under the symbol A/AC.109/L.1293.

GILBERT ISLANDS a/

1. GENERAL

1. The total land area of the Gilbert Islands, which also includes Banaba (formerly known as Ocean Island), the Phoenix Islands and the Line Islands, is 684 square kilometres. According to the annual report of the administering Power for the period under review, the unreliability of the vital statistics available and deficiencies in migration records make it difficult to update census figures with accuracy. The increase in population in the Gilbert Islands between the censuses of 1968 and 1973 was 8.8 per cent, compared with 10.2 per cent in the previous five-year intercensal period. The decrease may have been attributable to the intensity of the family planning campaign carried out in the Territory. The census held in 1978 showed the population to be just over 56,000.

2. On 25 and 26 January 1979, representatives of the Governments of the Gilbert Islands, the United Kingdom and the United States of America met in Hawaii to discuss the status of 14 islands in the Phoenix and Line Islands and related matters. As previously reported, b/ the United States claims sovereignty over the above-mentioned islands and maintains facilities for tracking satellites and missiles on Canton and Enderbury Islands under a 1939 joint administration agreement with the United Kingdom Government. It was reported that some progress had been made in resolving the issues. Another meeting was planned in the near future, aimed at a final resolution of the problem.

2. CONSTITUTIONAL AND POLITICAL DEVELOPMENTS

A. General

3. Following the separation of the former Territory of the Gilbert and Ellice Islands into the Gilbert Islands and Tuvalu, the Gilbert Islands Order, 1975, of 17 September 1975, came into force on 1 October 1975, formally establishing the Territory and providing it with a Constitution. On 1 January 1977, the Territory became internally self-governing and the Government then turned its attention to the achievement of full independence.

4. Extensive discussions were held throughout the Territory in 1976 and 1977 which culminated in the Constitutional Convention held on Tarawa for three weeks in April and May 1977. Mr. Rota Onorio, the Speaker of the House of Assembly, c/ presided over the Convention, assisted by Professor David Murray, Professor of Public Administration at the University of the South Pacific, Fiji.

a/ The information contained in this paper has been derived from published reports and from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 e/ of the Charter of the United Nations on 7 August 1978 and 5 February 1979 for the year ended 31 December 1977.

b/ Official Records of the General Assembly, Thirty-third Session, Supplement No. 23 (A/33/23/Rev.1), vol. III, chap. XVII, annex, para. 3.

c/ For the composition of the House of Assembly, see Official Records of the General Assembly, Thirty-third Session, Supplement No. 23 (A/33/23/Rev.1), vol. III, chap. XVII, annex, para. 8.

5. The recommendations of the Convention were subsequently considered and in some respects modified by a Select Committee of the House of Assembly both in 1977 and, following the elections of a new House in February 1978, d/ in August 1978.

6. As previously reported, Mr. Ieremia Tabai of Nonouti was elected Chief Minister in a national election held on 18 March 1978 and appointed his cabinet on 28 March.

7. In 1978, the Chief Minister headed two missions to London to discuss the future of the Territory. At the first meeting, in June, when he was accompanied by the Minister for Finance, the Minister for Natural Resources Development and an adviser on constitutional affairs, talks were held on the financial settlement to be made after independence. The second mission attended the Gilbert Islands Constitutional Conference held at London between 21 November and 7 December 1978, at the conclusion of which it was agreed that the Territory should become independent early in July 1979. It has now been determined that 12 July will be independence day.

B. Banaba and the future status of the Territory

Banaba

8. It will be recalled that for a number of years the landowners of Banaba, now resident on Rabi Island in Fiji, have maintained that they should have received a higher level of revenue from the phosphate proceeds up to 1966. e/ In 1975, the Banabans instituted two major legal actions in the High Court in London. In the first action, the Banabans sued the British Phosphate Commissioners (BPC) for, inter alia, allegedly failing to replant some 100 hectares of worked-out land on Banaba and for mining on unleased land. In the second action, the Banabans claimed that all phosphate taxation monies levied by the territorial Government on the operations of BPC were held by the Crown in trust for the Banabans and that the Crown was in breach of trust in not paying the money to the Banabans and in not obtaining, prior to 1966, the best possible price for the phosphates. The hearings of the two actions were concluded in August 1976. All claims in the second action were dismissed on the grounds that the Crown's obligation was governmental in nature and not a fiduciary obligation justifiable in the courts. In May 1977, however, Mr. David Owens, the United Kingdom Secretary of State for Foreign and Commonwealth Affairs, announced that the partner Governments of BPC (Australia, New Zealand and the United Kingdom) would make available an ex gratia payment of \$A 10 million f/ to the Banabans without admitting any liability. At the end of July 1977, the High Court awarded the Banabans \$A 13,950 against BPC in the action concerning the replanting of worked-out areas.

9. The Constitutional Conference considered the future status of Banaba at its first working plenary session on 22 November 1978. The Chief Minister and Lord Rawlinson addressed the Conference on behalf of the Gilbert Islands

d/ Ibid., paras. 8-18.

e/ Ibid., paras. 23-45.

f/ The local currency is the Australian dollar (\$A). At 15 March 1979, \$A 1.00 equalled approximately \$US 1.12.

delegation, Sir Bernard Braine, the Chairman of the Rabi Council of Leaders, and Mr. K. C. Ramrakha, legal adviser, spoke on behalf of the Banaban community. The Conference then established a Committee of the Whole, which held a series of meetings. There were also bilateral meetings between the United Kingdom delegation and the Gilbert Islands delegation, between the United Kingdom and Banaban representatives and between the Gilbert Islands delegation and the Rabi Council.

10. On 28 November, Lord Goronwy-Roberts, Minister of State for Foreign and Commonwealth Affairs, who served as Chairman of the Conference, announced the decision of the United Kingdom Government on the future status of Banaba. He stated that the Banaban representatives had throughout maintained their plea for separation and had put forward a number of points on which they sought safeguards. In response, the Gilbert Islands delegation had made counter-offers designed to provide a specially privileged constitutional status for Banaba and the Banabans, within a sovereign independent Gilbert Islands State. He said that although no agreement had been reached, the offers remained on the table as a basis for discussion.

11. His Government generally agreed that the Gilbert Islands must be permitted without further delay to proceed to independence on the basis of the draft constitution which the Conference was to consider. It was also agreed that the Conference would first have to resolve the basic question of the sovereignty of Banaba and, furthermore, that that decision rested with the United Kingdom Government.

12. For at least 60 years, Banaba had been an integral part of the Territory of the Gilbert Islands. Lord Goronwy-Roberts emphasized the importance attached to the principle of territorial integrity and pointed out that successive British Governments, in dealing with such cases in dependent Territories, had adhered to the wishes of the people as a whole within the existing boundaries. That had remained the basis of the United Kingdom Government's policy, although careful consideration had been given to arguments that special circumstances in the present case justified a departure from general policy. The separation of Tuvalu from the Gilbert Islands, for example, had been agreed to by the United Kingdom because it had been accepted, not only by the people of Tuvalu, but by the elected representatives of the people of the Gilbert and Ellice Islands as a whole.

13. Lord Goronwy-Roberts stated that his Government was not persuaded that adequate grounds existed in the case of Banaba to justify a departure from that long-established and widely accepted policy. The boundaries of the Gilbert Islands would therefore remain as at present constituted, and the Conference would consider the future constitution on that basis.

14. Nevertheless, the United Kingdom acknowledged the special claims of the Banabans and welcomed a similar acknowledgement by the Chief Minister of the Gilbert Islands. It was the wish of the United Kingdom Government that the special interests and concerns of the Banaban people should be safeguarded to the fullest extent reasonably possible within the sovereignty of the Gilbert Islands State. The precise nature of the safeguards which were to be provided was, as far as the United Kingdom was concerned, a matter for negotiation between the Gilbert Islands delegation and the Banaban representatives.

15. Following the Chairman's statement, the Banaban representatives left the Conference and were not thereafter available to participate in subsequent discussions concerning the proposed constitution and, in particular, special provisions to safeguard the interests of their community.
16. Sir Bernard, a member of Parliament, who had been advising the Banabans in their campaign (see para. 9 above), stated that the United Kingdom Government's decision to maintain the Gilbert Islands boundaries as at present constituted "would lead to bitterness and tension within the new Gilbertese State".
17. Subsequently, a spokesman for the Banabans said that they would take their campaign to regain their homeland to Australia and New Zealand, whose farmers had benefited from fertilizer from Banaba.
18. In February 1979, about 12 Banabans from Rabi Island arrived on Banaba and gave the manager of BPC an ultimatum to stop all mining, stating that if a satisfactory reply was not received within 12 hours, the group and the 200 Banabans currently on the island would destroy all phosphate mining equipment and machinery. They later threw some petrol bombs, damaging BPC machinery. A number of arrests were made, after which the demonstration ceased and order was restored. In March, it was reported that a representative of the United Kingdom Government had arrived in Suva in an attempt to convince the Banabans to call off their plans to disrupt mining on Banaba. No further incidents have been reported.

Future status

19. The Constitutional Conference agreed that the constitution should embody the following principles: on independence, the name of the Gilbert Islands would be Kiribati (pronounced Kiribass). The country would be a sovereign and democratic republic in accordance with the general wish of the people. (It was reported earlier that the House of Assembly had decided in September 1978 that the Gilbert Islands Government would apply for Commonwealth membership.)
20. There would be a President (Berentitenti, pronounced Berensiténse), as head of State and head of Government, who would be elected nationally following the election of members of the House of Assembly (Maneaba ni Maungatabu) from not less than three or more than four candidates, who would be nominated by the Maneaba from among its members. A person could assume the office of President on not more than three occasions. If a vacancy occurred in the office as the result of a vote of no-confidence by members of the Maneaba, the Maneaba would be dissolved and the Council of State would perform the functions of the President and of the Government until a new president was elected and assumed office. In other cases of vacancy, the Vice-President (Kauoman-ni-Berentitenti) would, on confirmation by the Maneaba, assume the office of President until the next election. In the event that the vice-president was not confirmed, the Maneaba would select candidates for a new election. The first president would be the person holding the office of Chief Minister immediately after independence.
21. As soon as practicable after his own election, the president would appoint a vice-president from among the ministers.
22. The executive authority of Kiribati would be vested in a cabinet which would be collectively responsible to the Maneaba for the direction and control of the

executive branch of the Government. The cabinet would consist of the President, who would preside over its meetings, the Vice-President, not more than eight other ministers and the Attorney-General. The ministers would be appointed by the President from among members of the Maneaba as soon as practicable after his election.

23. The Attorney-General would be the principal legal adviser to the Government and would have to be qualified to practise as an advocate before the High Court. The President would appoint the Attorney-General and would be empowered to remove him from office.

24. There would be a Council of State consisting of the Chairman of the Public Service Commission (acting as Chairman of the Council), the Chief Justice and the Speaker of the Maneaba.

25. The Maneaba would consist of a single chamber. Subject to a decision concerning representation of the Banaban community, the Maneaba would be composed initially of 35 members elected from 23 electoral districts. If the President represented a single-member electoral district, there would be 36 elected members. The Attorney-General, if not already an elected member, would be an ex officio member.

26. Qualifications and disqualifications for voting in elections to the Maneaba would follow those set out in the present Elections Ordinance, except that belonger status as a qualification would be replaced by Kiribati citizenship, and there would be special provisions relating to the Banabans.

27. The Maneaba would be empowered to make laws subject to the constitution by means of bills passed by the Maneaba, to which the President had given his assent. The maximum life of the Maneaba would be four years.

28. The Speaker of the Maneaba would be elected by the members of the Maneaba, although he could not be a member himself. The Speaker would be responsible for summoning the Maneaba and appointing a time and place for meetings in accordance with the constitution and the rules of procedure.

29. There would be a High Court of Kiribati, which would be a superior court of record with such jurisdiction and powers as might be prescribed by the constitution or by any law currently in force in Kiribati. The judges of the High Court would be a Chief Justice and other judges as might be prescribed by law. The Chief Justice would be appointed by the President on the advice of the Cabinet after consultation with the Public Service Commission. He must have held office as a judge in any country or have been qualified for not less than five years to practice as an advocate.

30. The Constitutional Conference agreed to include a chapter on citizenship in the draft constitution. The Gilbert Islands delegation undertook to publicize that decision as soon as possible within the Territory, thereby giving those interested and qualified the maximum amount of time to decide whether to retain another citizenship or to renounce it so as to qualify for automatic citizenship of Kiribati on the day of independence.

31. Under the draft constitution, a person of I-Kiribati descent would be defined as a person with at least one ancestor born in Kiribati before 1900. An eligible person would be defined as one who was a citizen of the "United Kingdom and Colonies" prior to independence day and had no other nationality, provided that neither he, his father nor his father's father had been born in the United Kingdom or was registered or naturalized in the United Kingdom as a citizen of the United Kingdom and colonies or as a British subject.

32. An eligible person would be deemed to have lost another nationality if the law of the country of the other nationality made no provision for, or did not permit, the person to renounce that nationality, and if the person had, before independence day, signed and delivered to the Gilbert Islands Government a declaration that he no longer regarded himself as having that other nationality, would not claim the benefits of that nationality and wished to become a citizen of Kiribati.

33. Every person of I-Kiribati descent would have an inalienable right to enter and reside in Kiribati and, on independence day, would become or have and continue to have thereafter the right to become a citizen of Kiribati.

34. Those of I-Kiribati descent and those not of I-Kiribati descent but considered eligible and born in the islands would become Kiribati citizens on independence day. Moreover, provision would be made for those who did not automatically become citizens on independence day to apply for citizenship. The Maneaba could also make provision for the acquisition, deprivation or renunciation of Kiribati citizenship, as well as for the maintenance of a register of citizens of Kiribati who were also citizens of other countries.

Special provisions for Banaba and Banabans

35. Following the decision by the United Kingdom Government that Banaba was to remain part of the Gilbert Islands, the Constitutional Conference considered how best to proceed in the absence of the Banaban representatives. It was decided to deal first with other provisions of the draft constitution and then, if the Banaban representatives remained absent, to consider appropriate safeguards for the rights and privileges of the Banabans suitable for inclusion in the constitution, taking into consideration the 1947 Statement of Intentions.

36. In order to give effect to that agreement, the Conference resolved that the constitution should include provisions along the following lines:

(a) Representation in the Maneaba-ni-Maungatabu

37. One seat would be reserved in the Maneaba for a representative of the Banaban community, in addition to any elected member or members from Banaba. The additional representative would be a Banaban, nominated for the duration of the session of the Maneaba by the Rabi Council or such successor body representing the Banaban community on Banaba and Rabi Island.

38. A candidate for a constituency comprising or including Banaba, would have to be a citizen of Kiribati or a Banaban.

39. A person wishing to register as a voter on Banaba would have to be a Banaban or a citizen of Kiribati and otherwise qualified to be registered.

40. In reviewing the number of electoral districts, the boundaries and the number of representatives as they relate to Banaba, the Electoral Commission would determine whether registered voters were citizens of Kiribati, taking into account the most recent census data on citizens of Kiribati and Banaba.

(b) Land on, and access to, Banaba

41. Where any Banaban possessed any right over or interest in any land on Banaba, such right or interest would not be affected in any way because he resided on Rabi Island.

42. Where the Kiribati Government had acquired any right over or interest in land on Banaba from any Banaban for the purpose of phosphate extraction, the Government would transfer that right or interest to that Banaban or to his heirs and successors upon the completion of phosphate extraction from the land.

43. Where any Banaban possessed any right over or interest in land on Banaba, no such right or interest would be compulsorily acquired other than a leasehold interest and in accordance with the constitution, and then only where the following conditions were satisfied:

(i) The Banaban Island Council had been consulted;

(ii) Every reasonable effort had been made to acquire the interest by agreement with the person who possessed the right over or interest in the land.

44. Every Banaban would have an inalienable right to enter and reside in Banaba.

(c) New provisions

45. A new section would be included to constitute a Banaba Island Council in accordance with legislation providing for local authorities.

46. Another new section would be included stating that five years after independence an independent commission of inquiry would be appointed to review the operation of the provision in the constitution specifically relating to the Banabans and to make recommendations to be presented to the Maneaba.

(d) Appeals

47. Appeals concerning the infringement of specific provisions in the constitution relating to the Banabans would continue to lie from the High Court to the Judicial Committee of the Privy Council.

(e) Entrenchment

48. All specific provisions relating to the Banabans would be entrenched in the constitution, and could only be amended in accordance with the following procedure. A bill for an act to amend those provisions would not be passed unless the Maneaba supported the amendment following the procedure provided for the amendment of the Kiribati constitution (other than provisions relating to fundamental rights). If, on the second reading, either the nominated representative of the Banaban community,

or the elected member or members for Banaba, cast their vote against the bill, the bill would fail. If the nominated representative were not present at the vote on the second reading, the bill would be deferred to the next meeting of the Maneaba, and the Rabi Council and the Banaba Island Council would be informed of the deferral.

(f) Definition of Banaban

49. In the interpretation section of the draft constitution, a Banaban would be defined as a former indigenous inhabitant of Banaba or such other person, one of whose ancestors was born in Kiribati before 1900, who would hereafter be accepted as a member of the Banaban community in accordance with custom.

50. The Chief Minister of the Gilbert Islands presented further proposals beyond the immediate concern of the Constitutional Conference to indicate the nature of the measures his Government proposed to take in order to reassure the Banabans. The Chief Minister proposed to seek the co-operation of the Chairman of the Rabi Council of Leaders concerning the proposals.

51. On 9 March 1978, a public relations consultancy firm in London transmitted to the Secretary-General of the United Nations copies of a document published by the Government of the Gilbert Islands concerning Banaba and the Gilbert Islands. g/ Under the heading "Post-Conference developments", it is stated that, following the Constitutional Conference, the Chief Minister of the Gilbert Islands wrote to the Chairman of the Rabi Council of Leaders. He concluded his letter by stating that, in accordance with an offer made by the former Chief Minister in June 1975, he was making provision for a review of the special provisions for Banaba, including any arrangements which might be agreed upon between the Gilbert Islands Government and the Rabi Council in future discussions, the review to take place five years after such an agreement had been reached. He therefore proposed that the new constitution should include reference to an independent commission which would be appointed to perform that task. He expressed the hope that the Gilbert Islands Government and the Rabi Council of Leaders would reach an agreement concerning the membership of the Commission. A reply from the Council has not yet been received.

52. At the Constitutional Conference, the Government of the Gilbert Islands reaffirmed that the Banabans' share of the proceeds from phosphate extraction would remain free of tax in Kiribati. It reiterated its intention: (a) to allocate a proportion of its recurrent and capital expenditure to Banaba, to the same extent as to other outer islands of Kiribati, taking into account the population of Banaba; (b) to provide administrative and social services for Banaba; and (c) to provide places at training institutes for Banabans wishing to take advantage of such facilities.

53. The Gilbert Islands Government also expressed its readiness, in response to a suggestion by the representatives of the Rabi Council of Leaders, to enter into discussions for the conclusion of a treaty with Fiji, if the Government of Fiji were willing. The treaty would include provisions for the settlement of disputes.

g/ A copy of the document has been placed in the files of the Secretariat and is available for consultation by members of the Special Committee.

C. Public service

54. According to the agreement reached at the Constitutional Conference, the new State of Kiribati would have a public service commission consisting of a chairman and four other commissioners to be appointed by the President (who would also have powers of removal) on the advice of the Speaker of the Maneaba and the Chief Justice acting jointly. The commissioners should be appointed for three years or for such lesser period as the President deemed necessary. The President, acting on the advice of the public service commission, would have the power to appoint all government employees, except where otherwise provided in the constitution. He might delegate his authority in certain cases to the public service commission which would be responsible for the exercise of disciplinary control over and removal of government employees, unless otherwise provided in the constitution. Special procedures would be set out to appoint the secretary to the Cabinet, secretaries to ministries, a commissioner of police and a director of audit.

55. At 31 December 1977, there were 1,691 public service posts, 371 of which were vacant. Of the 1,320 posts, 81 were occupied by expatriates and 1,239 by local officers. At 1 January 1978, all employees of the Gilbert Islands Development Authority (GIDA) (1,245 in 1977), which was being wound up, were transferred to the Ministry of Works and Public Utilities.

3. ECONOMIC CONDITIONS

A. General

56. The only export crop in the Territory is copra. Practically all the land is owned by islanders in small peasant proprietorships. Fanning Island and Washington Island (Line Islands), the only freehold properties of any size not owned by the indigenous inhabitants, are operated as commercial copra plantations by Fanning Island Plantation, Ltd. Christmas Island, also a part of the Line group, has no indigenous population and is owned by the Crown.

57. The only other commercial export is phosphate rock, which is obtained by open-cast mining on Banaba. Production and exports are controlled by BPC, which is responsible to the Governments of the United Kingdom, Australia and New Zealand (see paras. 75-77 below).

58. Land tenure in customary law, which has been codified, does not permit unrestricted right of disposal. Tenure is in the form of a life tenancy, and the registered owner is in the position of a trustee for his family.

59. During 1978, it was reported that the Gilbert Islands Government had laid down the objectives for the Fourth Development Plan to steer the country through its first years of independence from 1979 to 1982. Ministries were preparing programmes of work to achieve the objectives of the draft plan, which was to be presented to the House of Assembly at its first session in 1979. The objectives of the plan stress the development of rural areas, with rural inhabitants participating fully in the plan.

60. With the price of oil increasing continuously (to \$US 12.50 per barrel of oil at the source, and an added \$US 2 to \$US 3 per barrel for shipping), and the islands' needs for increased power and transportation to allow for economic development, a considerable squeeze on the Territory's financial sources has begun.

It was reported that in 1978 the Territory's out-of-pocket expenses to operate power plants and automobiles exceeded \$A 15 million. Before the mathematics of the situation turn drastically against the island, some consideration has reportedly been given to petroleum substitutes and to the cost of installing solar heating panels on individual structures. The islands have abundant sunlight and there are no severe winters for which additional heating systems would be required.

B. Public finance

61. The financial year corresponds to the calendar year. In 1977, ordinary revenue in the Gilbert Islands amounted to \$A 14.75 million (\$A 14.7 million in 1976), including \$A 8.3 million from phosphate taxes (\$A 9.6 million in 1976). Recurrent expenditure in 1977 amounted to \$A 13.4 million (\$A 12.2 million in 1976).

62. Since 1970, assistance from the United Kingdom has been in the form of development aid grants, which amounted to \$A 4.8 million in 1978/79. Development projects were also financed by specialized agencies of the United Nations, the Australian South Pacific Aid Programme and from New Zealand (see also paras. 66-74 below).

63. The Revenue Equalization Reserve Fund was instituted in 1956 to provide capital with accumulating interest against the exhaustion of the phosphate deposits on Banaba. The interest was used to balance the budget of the former Territory of the Gilbert and Ellice Islands when necessary. The estimated market value of the fund at 31 December 1978 was \$A 65.0 million.

64. The value of exports in 1977 was \$A 18.2 million, an increase of less than 1 per cent over that of 1976. Although a slight increase, it was significant in that it reflected a particularly good year for the copra industry, owing to good rainfall throughout 1976 and 1977 as well as higher prices in the world market in 1977. The value of copra exported in 1977 was \$A 2.4 million, compared with \$A 956,323 the previous year, an increase of 151 per cent. The rise in copra earnings did not offset the very marked decrease in phosphate earnings, however, which fell from \$A 26.0 million in 1975 to \$A 15.7 million in 1977. During the period 1975 to 1977, phosphate revenues were used to finance about 40 per cent of the budget. The sale of local handicrafts dropped by 7.8 per cent from the 1976 figures to \$A 29,669.

65. Total imports in 1977 amounted to \$A 11.7 million, which resulted in a favourable trade balance of \$A 6.5 million. The machinery and transport equipment component suffered a decrease of 15.6 per cent and the beverages and tobacco component also declined by 0.3 per cent compared with the previous year. Mineral fuels and lubricants amounted to over \$A 2.0 million.

C. Assistance programmes

66. At the Constitutional Conference held at London between 21 November and 7 December 1978, the United Kingdom Government agreed to provide in the period up to 31 December 1982 the following assistance:

- (a) Development aid up to £15.5 million for the period 1979 to 1982;

(b) Special financial assistance totalling \$A 9.1 million to meet an agreed budgetary deficit;

(c) Continuing support to the Government of Kiribati in the form of a technical co-operation programme, including the provision of expert personnel and training in the United Kingdom;

(d) Additional support, when necessary, in the event of emergencies such as natural disasters.

67. Development aid would be made available on grant terms for general development projects to be mutually agreed on, including projects for administrative and social infrastructure. To the extent that development assistance specified above (see para. 66 (a)) was otherwise already committed, the United Kingdom Government would be ready to consider providing support for: (a) joint ventures; (b) development of Banaba in the light of consideration of a resources survey; and (c) other sound developmental projects for which finance was not available.

68. In addition to the allocation of £15.5 million, the United Kingdom would be ready to consider underwriting the contribution of the Gilbert Islands Government to the National Provident Fund in respect of the commuted pension rights of civil servants, as well as other proposals designed to reduce the cost of government.

69. Consultations would take place in 1982 to review progress in the development plan and the disbursement of aid up to that time, and to consider the level of further United Kingdom aid in the succeeding period.

70. Following a request from the Gilbert Islands Government, the Australian Government agreed to supply a construction plant and equipment (valued at \$A 1.6 million), including 10 trucks, a bulldozer, an excavator, road rollers, cranes, pumps, a dump truck, fork-lifts, front-end loaders, generators, graders and a pile-driver rig to be used on land reclamation projects and in building causeways, airstrips, schools and government buildings included in the Territory's development plan.

71. Australia is currently constructing a salt-water-borne sewerage scheme for South Tarawa at an estimated cost of \$A 3.3 million. Other major Australian projects in the last year have been the construction of a hangar at Bonriki airport (\$A 200,000) and the provision of a cash grant of \$A 300,000 for the construction of outer-island airstrips at Nikunau and Onotoa.

72. In 1977/78, aid projects financed by the Government of New Zealand were reported to have totalled \$NZ 500,000. The main projects included assistance for the clearance of reef passages, carried out by a New Zealand team; the design of, and supply of materials for, building a new warehouse on Betio for the Co-operative Federation, Ltd., and the construction of a new extension centre at the University of the South Pacific at South Tarawa, which was financed by aid set aside for regional projects.

73. The New Zealand Government also provided scholarships to Gilbertese students for training in New Zealand, Fiji and other third world countries as well as financing for a specialist to teach at the Tarawa Training Institute.

74. In 1978, the second year in the programming cycle of the United Nations Development Programme (UNDP) for the Territory covering the five-year period 1977 to 1981, the UNDP allocation was \$US 1.14 million, double the amount for the last five-year cycle, (1972 to 1976). In terms of real value, the increase was only 40 per cent because of inflation. Under the first five-year plan, the UNDP allocation was used to provide the salary for the superintendent (a captain) of the Marine Training School and to begin the evaluation project on tuna and bait-fish resources (see also paras. 87-88 below). The project has now become the major receiver of UNDP assistance to the Gilbert Islands.

D. Mining

75. Mining, in the form of the extraction of lime phosphate, has been carried out at Banaba for 76 years, or since the discovery of phosphates on that island by Mr. A. F. Ellis. In 1920, the Governments of the United Kingdom, Australia and New Zealand jointly set up BPC to mine and market the phosphate produced on Nauru and Ocean Island (Banaba). The land of the island is owned by the Banabans who, in March 1942 with royalties received from BPC, bought Rabi, an island of Fiji, and moved there en bloc after the Second World War. In 1947, the Banabas voted to make Rabi their permanent home. The Banabans continue to receive rent and royalties from their lands. The Gilbert Islands Government, however, has no direct control over the activities of BPC. The United Kingdom Government, which appoints and directs the United Kingdom Commissioner, is responsible for safeguarding the interests of the Gilbert Islands Government. According to the report of the administering Power, BPC held a general review meeting on Tarawa in June 1977, at which it was agreed that Banaban phosphate should continue to be produced and disposed of by BPC in order to guarantee a market. No alteration was made in the taxation arrangement then in effect.

76. After deduction of production costs, the proceeds of phosphate sales from the land leased prior to 1973 are divided according to a formula which gives the Banabans 15.12 per cent of the surplus and the Government of the Gilbert Islands 84.88 per cent. Proceeds from land leased since 1973 are equally divided between the Banabans and the Gilbertese. The Banabas share includes a royalty of \$A 0.20 a ton (or about \$A 120,000 a year) which is a first charge on the proceeds.

77. The phosphate industry accounted for 86.3 per cent of the total value of exports in 1977 (see para. 64 above). The importance of phosphate revenues to the Gilbert Islands is therefore overwhelming. In 1975, a lower extraction rate of about 150,000 metric tons a year was decided on in order to prolong production, which is due to end in 1979. In the light of the present world glut of phosphate and the desire of the producing nations to maintain the present high price, the decision to reduce the extraction rate should mean that the phosphate revenue will not drop dramatically. Banaban phosphate production for 1977 was 418,650 metric tons (420,080 metric tons in 1976).

E. Agriculture

78. Coconuts are the only commercial crop grown in the Territory (see also para. 56 above). The coconut also provides the islanders with an important source of food and drink. The palms are mainly grown in irregularly spaced groves,

frequently with intervening bush. The latter has some importance in the subsistence economy because various trees are required for housing and canoe construction and for food.

79. Surveys indicate that the average number of coconut palms per hectare is 135. The average yield of copra is difficult to estimate, owing to the use of coconuts as food, but it is likely that the average total yield per annum is about 375 kilograms of copra equivalent per hectare, with a maximum production of 625 kilograms per hectare in the Northern Gilbert Islands and a minimum of 250 kilograms in the Southern Gilbert Islands.

80. Copra production and export statistics for the Gilbert Islands are set out below, in metric tons:

	Peasant landowners	Plantations	Total production	Total exports
1976	6,205	1,503	7,708	5,526
1977	6,440	1,422	7,862	7,993

81. The Copra Board, established by ordinance in 1950 and reconstituted by a further ordinance in 1955, was disbanded in May 1975. Its duties were transferred by ordinance to the Coconut Products Marketing Co-operative Society. The Co-operative Society sells the bulk of the copra crop to Europe at current world market prices. The aim of the Co-operative Society is to improve the quality of the copra by grading and inspection.

82. At 31 December 1977, the general reserve fund of the Co-operative Society reached \$A 1.87 million owing to increases in prices paid during the year.

83. A total of 206 hectares of coconut palms was replanted in 1977 with a further 483 hectares of land cleared and prepared for planting with seedlings. Progress with the coconut subsidy schemes is given below:

Hectares	Improvement schemes		New planting schemes	
	1976	1977	1976	1977
Registered	1,403	1,403	1,504	1,432
Completed	1,376	1,376	743	949

F. Fisheries

84. During the year under review, the main task of the Fisheries Division was to complete the Tarawa Lagoon survey, which involved determining available stocks and following closely the movements of fish in and out of the lagoon. The results of

the survey, which took over two years to complete, were to have been published in 1978. The report would make it possible to assess the value of future lagoon fisheries and would enable commercial organizations to obtain a clearer estimate of the volume and variety of fish stocks and to determine the methods to be used to catch the fish. During the survey, 116 species of fish were recorded, as well as some unidentified species.

85. The United Kingdom has met the cost (\$A 930,000) of building a new fishing vessel specifically designed to meet the requirements of the Fisheries Division, for use in the UNDP bait-fish project (see para. 88 below). The vessel, which was being built at the Fujishin Shipyard in Japan by a Gilbertese crew, was to have been completed by December 1978.

86. In conformity with an agreement reached at the South Pacific Forum, the Governor of the Territory proclaimed a 200-mile exclusive zone around the Gilbert Islands to become effective on 1 April 1978. Since that date, foreign vessels have been required to obtain a licence before fishing within the zone. The zone does not yet include certain areas in the Northern Line Islands and the Phoenix Islands.

87. In 1978, the local produce section of the Co-operative Federation, in co-operation with the Fisheries Division, initiated a marketing scheme for fish on South Tarawa. The fish are purchased from fishermen at collection points, placed on ice in insulated containers and sold the following morning at the Betio markets.

88. In January 1977, the UNDP Governing Council approved a tuna and bait-fish resources evaluation project for the Gilbert Islands, to be executed by the Food and Agriculture Organization of the United Nations (FAO). The long-range objectives of the project are to provide the Territory with sufficient economic strength to attain self-reliance through fisheries, as a replacement for the diminishing phosphate mining industry, and to improve the ability of the territorial Fisheries Division to meet development goals. Initially, a pilot project was undertaken involving experiments, scientific investigations and feasibility studies. The second phase, now under way, is an extension project, which includes the building of 16 hectares of bait-fish ponds. Despite continual heavy rains and the lack of suitable machinery, the ponds were completed in 1978.

89. An aid application is being prepared for submission to UNDP requesting a reception and distribution centre for fish supplies to enable the residents of Tarawa to obtain an adequate supply for their families. A survey carried out in 1976/77 on Tarawa gave a detailed study of consumer requirements. It was estimated that approximately 610 metric tons of fresh fish, valued at \$A 336,000 were caught and consumed annually at Tarawa alone (see also para. 74 above).

G. GIDA

90. Public works were undertaken by GIDA until 1977, when the Government set up a Devolution Committee to study and make recommendations to organize GIDA into smaller, more manageable units. In so far as the Engineering Division was concerned, a report by the Crown agents of the United Kingdom recommended the re-establishment of a public works division in January 1978. In July 1977, steps were taken to set up a public utilities board to take over responsibility for the

electric power, water and sewerage systems. The board comprises a general manager and commissioners appointed by the Minister for Communications, Works and Utilities.

91. According to the annual report of the administering Power, the devolution of GIDA into smaller units revealed further defects in its structure and operation, and a decision was taken to dissolve the Authority altogether. Following the establishment of the Public Utilities Corporation in July 1977, the Supply Division was returned to Government Stores under the Ministry of Finance in October 1977. An administrator was appointed to carry out the liquidation of the remainder of GIDA, which ceased operation on 1 January 1978 (see also para. 55 above).

H. Transport and communication

92. The main means of communication among the various islands of the Territory are provided by ships owned by the territorial Government and the internal air services of Air Tungaru (see also para. 98 below).

93. Under customs and quarantine ordinances, the ports of entry to the Territory are Banaba, Tarawa, Fanning Island and Christmas Island. Each of those ports has a customs officer and an immigration officer. There are medical officers at all ports except Fanning. Banaba and Tarawa have harbour masters and pilots.

94. The major port installations are at Tarawa (Betio Islet) and at Banaba. At Tarawa, small ships of up to 3 metres draught may enter the harbour at Betio, while larger vessels of up to 8.5 metres draught may enter the lagoon at high tide, where there is good anchorage and they can be serviced by lighters towed by tugs. For marine communication with other countries, the Territory is dependent on vessels owned or chartered by BPC and on those operated by the Mauru Shipping Line, the Daiwa Line, the China Navigation Line and the new Pacific Forum Line. Fuel tankers chartered by the Mobil Oil Corporation (United States) supply fuel and petroleum, mainly from Fiji and occasionally from Nouméa and Papua New Guinea.

95. During 1977, 41 ships called at ports in the Territory, discharging 22,112 metric tons of cargo. In the same year, 277 vessels were handled at Betio (227 in 1976).

96. There are 10 airfields in the country, 2 of which are international (Tarawa and Christmas Island). The airport on Fanning Island is privately owned.

97. Work on the airstrip at Nikunau was completed in July 1978, at a cost of almost \$A 230,000. Another airstrip has just been constructed on Onotoa. In 1977, regional services were provided by two carriers: Air Pacific between Suva, Funafuti and Tarawa (once a fortnight); and Air Nauru between Tarawa and Nauru (twice weekly).

98. On 1 November 1977, the Air Tungaru Corporation (a statutory body) was founded to take over the operation of internal air service and the Tarawa travel service. In 1978, it assumed control of the domestic service previously operated by Air Pacific.

4. SOCIAL CONDITIONS

A. General

99. The growing pollution of Tarawa lagoon in recent years is attributed to two main causes: (a) the progressive closure of sea-water passages by causeways constructed to improve communications between the various islets of Tarawa atoll; and (b) the heavier volume of human wastes and domestic garbage entering the lagoon, as a result of the increasing population density on South Tarawa.

100. It is feared that pollution of the lagoon may discourage the entry of certain species of fish, which form a vital part of the local diet and are essential to the Government's bait-fish projects. It could also lead to outbreaks of disease, including fish poisoning.

101. As a consequence, in 1978, in response to a request from the Gilbert Islands Government, the South Pacific Commission made available a grant-in-aid to finance an expert survey of the lagoon. The experts are to assess the present condition of the water, investigate the effects of the inflow from the ocean and advise on methods of reducing pollution. They are also to draw up plans for a long-term monitoring system to warn against any increases in pollution levels.

B. Human rights

102. At the Constitutional Conference, held at London between 21 November and 7 December 1978, it was agreed that the constitution of the future republic of Kiribati should include the principles guaranteeing the fundamental rights and freedoms contained in the present Constitution.

C. Co-operative societies

103. In 1977, the co-operative movement continued to provide the basis for most of the economic activity in the Gilbert Islands. On the outer islands, co-operative societies acted as the sole buying agents of copra and were practically the only suppliers of consumer goods.

104. In 1977, the Gilbert Islands Co-operative Federation completed its fifth year of trading with a total turnover of \$A 5.8 million, an increase of 17.4 per cent, which reflected a very slight increase in trade over the previous year. Also, in 1977, the Co-operative Federation doubled its purchase of copra, which amounted to \$A 1.1 million, and nearly equalled the record purchases of 1974 and 1975. The sales of general merchandise were not as favourable. Although an increase of 10 per cent was recorded for the outer islands, there was a slump in sales throughout the Territory, especially after taking inflation into account, which was worsened by a tendency to rely more heavily on readily available local foods through the operations of the local produce section of the Co-operative Division.

105. Although the membership of the co-operative societies was unchanged, members on the outer islands shared over \$A 90,000 in bonuses in 1977, an increase of 40 per cent over the previous year. Over \$A 100,000 was paid to members of consumer/marketing societies (an increase of 25 per cent over the previous year) as an interim bonus, but only one society could afford to pay a final bonus.

D. Labour

106. A census taken in December 1973 indicated that the total number of Gilbertese of working age (15 years and over) was 26,330, made up of 12,513 men and 13,817 women. There are no seasonal fluctuations in employment in the country, although copra cutting increased owing to the rise in the local copra price (see also para. 64 above). Although employers are free to engage labour as they wish, subject to the provisions of the Employment Ordinance, the Administration attempts to ensure that the islands are not depleted of a working population essential to the life of each island. There is also a steady mover of population from the outer islands to Tarawa, the capital, attracted by casual employment, shops, cinemas, bars and a certain degree of relaxation of local customs.

107. In March 1978, the Ministry of Labour and Manpower replaced the Minister of State in the Chief Minister's office formerly responsible for all labour affairs.

108. In 1977, a member of the House of Assembly offered a grim picture of the employment prospective facing school leavers in the near future, stating that the present population of 4,350 young people ranging in age from 15 to 19 years was expected to increase to 6,300 in the next five years.

109. Government employees with contracts continued to work a five-day week of 36-1/4 hours. Unestablished employees work a 40-hour week and, on plantations, hours vary from 40 to 48 a week. At 1 July 1977, annual wages for public servants ranged from \$A 900 for junior entrants to \$A 7,248 at level 1.

110. Following a 12-day strike by members of the dock workers' union, active principally in Betio (Tarawa), a settlement was reached with the Gilbert Islands Government, and the union members agreed to return to work on 7 July 1978.

E. Public health

111. The Ministry of Health and Welfare is responsible for health services, including environmental sanitation, water supplies, disease control and family planning. The head of the Health Division is the Chief Medical Officer, assisted by two senior medical officers in administrative posts. In 1977 the staff of the Division numbered 248 (274 in 1976).

112. In 1977, there were three hospitals in the Territory with 279 beds: 169 at the Tugaru Central Hospital on South Tarawa, 100 at the general hospital maintained by BPC on Banaba and 10 at the small government hospital at Betio. There were 2,278 admissions at the Central Hospital and 25,989 out-patient attendances (1,674 and 26,567 respectively in 1975). All islands with a resident population have a dispensary usually comprising a permanent central building with surrounding buildings to house 20 to 40 out-patients.

113. In 1977, the total expenditure on health was \$A 889,763 (\$A 845,545 in 1976).

114. In August and September 1977, the Gilbert Islands experienced its first outbreak of cholera. There were 1,339 cases reported and 21 deaths. According to a

representative of the World Health Organization (WHO), cholera in the Gilbert Islands is approaching an endemic stage. (Tuberculosis and leprosy are the only well-documented endemic diseases in the Territory.) Improved sanitation was recommended to eradicate cholera. It was estimated that about \$A 80,000 was spent on the cholera vaccines by Australia, New Zealand and the United Kingdom. In April 1978, the South Pacific Commission and WHO organized a seminar on cholera at Nouméa, New Caledonia, to which the Gilbert Islands was invited to send two representatives.

5. EDUCATIONAL CONDITIONS

115. In 1976, there were 10 government primary schools, 41 schools maintained by island councils, 35 grant-aided mission schools and 16 unaided schools. Since 1 January 1977, however, when the amalgamation of all primary schools in the Gilbert Islands was completed, all primary schools, with the exception of six mission schools now registered as private schools, have been under the control of the Ministry of Education, Training and Culture, which is responsible for staffing, curriculum, equipment, new buildings, the maintenance of school buildings and the establishment of new schools.

116. The Ministry exercises its functions with the advice and assistance of island council education committees, primary school committees and individuals, allowing for a 50 per cent representation of parents appointed by the Minister after consultation with the local government councils.

117. At the beginning of 1977, school fees were abolished for all pupils attending classes 1 to 6 in all government primary schools, except for those on South Tarawa, Banaba and the Line Islands. During the period under review, primary education was provided by 75 government schools for 13,329 pupils and by 6 private schools for 350 pupils. The total number of teachers in the primary schools was 435 (417 in government schools and 18 in private schools).

118. In June 1977, approximately 2,800 pupils in classes 5, 6 and 7 (11 and 12 years of age) sat for the common entrance examination, competing for 210 places available in Form 1 of the academic secondary schools in 1978. In order to ensure that all islands would be represented in the secondary schools, 25 per cent of the 210 places available were allocated on the basis of a quota system, with awards being made in proportion to the number of candidates from each island.

119. Secondary education is provided by a government school on Tarawa and by four mission schools, all of which are co-educational boarding schools. At 1 March 1977, enrolment totalled 832 (707 in 1976). There were 59 teachers.

120. The year 1977 also saw the establishment, on an experimental basis, of four community high schools (on Little Makin, Maiana, Tabiteuea North and Tamana). The community high schools, each offering three-year courses, are designed to give those primary school leavers unable to obtain places at the academically oriented secondary schools further education and training in the fields which will make them useful members of their society. During the year, 168 pupils attended the schools which had a staff of 12. The experiment will be evaluated at the end of 1979 and, if found to be successful further schools of this type will be developed on each island.

121. In 1977, the Tarawa Teachers' College, responsible for all teacher training in the Gilbert Islands, including in-service training courses for teachers, had an enrolment of 61 (54 in 1976). The Tarawa Technical Institute had a total enrolment of 529 students in 1977. Enrolment in the Marine Training School numbered 190 trainees in one-year, full-time courses in seamanship and 206 trainees in 27 short-term courses of from one to two weeks' duration.

122. Apart from the local training carried out at these three institutions, tertiary education and advanced in-service training are available through scholarships and training grants which enable students to study overseas. The Scholarships and In-Service Training Committee is responsible for the over-all direction of a comprehensive programme of scholarships. During 1977, 77 Gilbertese students were studying overseas on scholarships, and another 88 trainees completed or began overseas training courses in the United Kingdom, Australia, New Zealand and Fiji.

123. In 1977, government expenditure on education, including development aid, was \$A 2.3 million (\$A 1.96 million in 1976).

CHAPTER XXXII*

ST. LUCIA

ATTAINMENT OF INDEPENDENCE

Following the approval in December 1978 of the draft St. Lucia Termination of Association Order 1978 by both Houses of Parliament of the United Kingdom of Great Britain and Northern Ireland, St. Lucia became independent on 22 February 1979.

* Previously issued as part of A/34/23/Add.8.

INFORMATION FROM NON-SELF-GOVERNING TERRITORIES TRANSMITTED
UNDER ARTICLE 73 e OF THE CHARTER OF THE UNITED NATIONS

A. Consideration by the Special Committee

1. The Special Committee considered the question of information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter of the United Nations and related questions at its 1153rd and 1154th meetings, on 7 and 8 August 1979.
2. In its consideration of the item, the Special Committee took into account the provisions of General Assembly resolution 33/44 of 13 December 1978 on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. Furthermore, the Special Committee took into account other pertinent resolutions of the General Assembly concerning information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter and related questions, in particular resolution 1970 (XVIII) of 16 December 1963 which, inter alia, dissolved the Committee on Information from Non-Self-Governing Territories and transferred certain of its functions to the Special Committee, and paragraph 4 of resolution 33/37 of 13 December 1978 which requested the Special Committee to continue to discharge the functions entrusted to it under resolution 1970 (XVIII), in accordance with established procedures, 1/ and to report thereon to the General Assembly at its thirty-fourth session.
3. During its consideration of the item, the Special Committee had before it the report of the Secretary-General (see annex to the present chapter) containing information on the dates on which information from the Non-Self-Governing Territories concerned, called for under Article 73 e of the Charter, was transmitted for the years 1977 and 1978.
4. At its 1153rd meeting, on 7 August, the Chairman drew attention to a draft resolution on the item (A/AC.109/L.1335).
5. At its 1154th meeting, on 8 August, the Special Committee considered and adopted the draft resolution without objection (see para. 7 below) (A/AC.109/PV.1154).
6. On 9 August, the text of the resolution (A/AC.109/585) was transmitted to the administering Powers for their attention.

* Previously issued under the symbol A/34/23/Add.9.

1/ Official Records of the General Assembly, Nineteenth Session, Annexes, annex No. 8 (Part I) (A/5800/Rev.1), chap. II.

B. Decision of the Special Committee

7. The text of the resolution (A/AC.109/585) adopted by the Special Committee at its 1154th meeting, on 8 August, to which reference is made in paragraph 5 above, is reproduced below:

The Special Committee,

Having examined the report of the Secretary-General on this item, 2/

Recalling General Assembly resolution 1970 (XVIII) of 16 December 1963, in which the Assembly requested the Special Committee to study the information transmitted to the Secretary-General in accordance with Article 73 e of the Charter of the United Nations and to take such information fully into account in examining the situation with regard to the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Recalling also General Assembly resolution 33/37 of 13 December 1978, in which the Assembly requested the Special Committee to continue to discharge the functions entrusted to it under resolution 1970 (XVIII),

Deploring that some Member States having responsibilities for the administration of Non-Self-Governing Territories have ceased to transmit information under Article 73 e of the Charter,

1. Reaffirms that, in the absence of a decision by the General Assembly itself that a Non-Self-Governing Territory has attained a full measure of self-government in terms of Chapter XI of the Charter of the United Nations, the administering Power concerned should continue to transmit information under Article 73 e of the Charter with respect to that Territory;

2. Requests the administering Powers concerned to transmit, or continue to transmit, to the Secretary-General the information prescribed in Article 73 e of the Charter, as well as the fullest information on political and constitutional developments in the Territories concerned, within a maximum period of six months following the expiration of the administrative year in those Territories;

3. Decides, subject to any decision which the General Assembly might take in that connexion, to continue to discharge the functions entrusted to it under General Assembly resolution 1970 (XVIII), in accordance with established procedures.

2/ See annex to the present chapter.

REPORT OF THE SECRETARY-GENERAL

Transmission of information under Article 73 e of the Charter
of the United Nations

1. The Secretary-General's previous report on the subject a/ listed the dates on which information was transmitted to the Secretary-General under Article 73 e of the Charter up to 16 August 1978. The table at the end of the present report shows the dates on which such information was transmitted in respect of the years 1977 and 1978 up to 2 August 1979.
2. The information transmitted under Article 73 e of the Charter follows in general the standard form approved by the General Assembly and includes information on geography, history, population, economic, social and educational conditions. In the case of Territories under the administration of Australia, France, New Zealand, the United Kingdom of Great Britain and Northern Ireland and the United States of America, the annual reports on the Territories also include information on constitutional matters. Additional information on political and constitutional developments in the Territories under their administration is given by the representatives of Australia, France, New Zealand, the United Kingdom and the United States during meetings of the Special Committee. Supplementary information is also made available by the United Kingdom and the United States concerning Territories under its administration.

Study of information transmitted under Article 73 e of the Charter

3. In compliance with the provisions of paragraph 5 of General Assembly resolution 1970 (XVIII) of 16 December 1963 and other relevant resolutions of the General Assembly, including in particular resolution 33/37 of 13 December 1978, the Secretariat has continued to use the information transmitted in the preparation of working papers on each Territory for the Special Committee.

* Previously issued under the symbol A/AC.109/581.

a/ Official Records of the General Assembly, Thirty-third Session, Supplement No. 23 (A/33/23/Rev.1), vol. IV, chap. XXXIII, annex.

Dates of transmission of information under Article 73 e of
the Charter of the United Nations for 1977 and 1978 a/

	<u>1977</u>	<u>1978</u>
AUSTRALIA		
Cocos (Keeling) Islands	30 May 1978 <u>b/</u>	13 June 1979 <u>c/</u>
FRANCE (calendar year)		
New Hebrides (condominium with the United Kingdom of Great Britain and Northern Ireland)	7 November 1978	30 July 1979
NEW ZEALAND (1 April-31 March) <u>d/</u>		
Tokelau	25 July 1978	30 July 1979
PORTUGAL		
East Timor <u>e/</u>		
SPAIN (calendar year)		
Western Sahara <u>f/</u>		
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (calendar year)		
Antigua <u>g/</u>	-	-
Belize	26 September 1978	23 July 1979
Bermuda	7 August 1978	23 July 1979
British Virgin Islands	7 August 1978	23 July 1979
Brunei <u>h/</u>	-	-
Cayman Islands	14 June 1978	23 July 1979
Falkland Islands (Malvinas)	7 August 1978	23 July 1979
Gibraltar	7 August 1978	23 July 1979
Montserrat	7 August 1978	23 July 1979
New Hebrides (condominium with France)	28 August 1978	23 July 1979
Pitcairn	7 August 1978	23 July 1979
St. Helena <u>d/</u>	7 August 1978 <u>i/</u>	23 July 1979
St. Kitts-Nevis-Anguilla <u>g/</u>	-	-
St. Vincent <u>g/</u>	-	-
Southern Rhodesia	24 October 1978	-
Turks and Caicos Islands	7 August 1978	23 July 1979

UNITED STATES OF AMERICA (1 July-30 June) j/

American Samoa k/	14 April 1978	1 March 1979
Guam	7 March 1978	30 April 1979
United States Virgin Islands	11 April 1978	7 February 1979

a/ For a preliminary list of Territories to which the Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly resolution 1514 (XV) applies, see Official Records of the General Assembly, Eighteenth Session, Supplement No. 14 (A/5514), part one, annex II.

b/ Information covers the period 1 January 1977 to 30 April 1978.

c/ Information covers the period 1 July 1978 to 31 May 1979.

d/ Period extends from 1 April of the year listed to 31 March of the following year.

e/ On 6 April 1979, the Permanent Representative of Portugal to the United Nations informed the Secretary-General that the conditions still prevailing in East Timor, which Portugal had brought to the attention of the Secretary-General (A/33/75) and a number of organs of the United Nations, had prevented the Portuguese Government from assuming its responsibilities for the administration of that Territory. Under such circumstances, the Portuguese Government was unable to supply any information relating to economic, social and educational conditions in that Territory, as required by Article 73 e of the Charter (A/34/311).

f/ On 26 February 1976, the Permanent Representative of Spain to the United Nations informed the Secretary-General that "The Spanish Government, as of today, definitively terminates its presence in the Territory of the Sahara and deems it necessary to place the following on record: ... (a) Spain considers itself henceforth exempt from any responsibility of an international nature in connexion with the administration of the said Territory in view of the cessation of its participation in the temporary administration established for the Territory ..." (A/31/56-S/11997). For the printed text, see Official Records of the Security Council, Thirty-first Year, Supplement for January, February and March 1976.

g/ At previous sessions of the General Assembly, the United Kingdom had declared that, having achieved the status of Associated State, this Territory had attained "a full measure of self-government" and, consequently, the transmission of information thereon was, in its view, no longer appropriate (see also documents A/AC.109/341, A/C.4/725, A/AC.109/PV.762 and Corr.1, Official Records of the General Assembly, Twenty-second Session, Fourth Committee, 1752nd meeting and *ibid.*, Twenty-fourth Session, Fourth Committee, 1867th meeting).

h/ On 13 September 1972, the Government of the United Kingdom notified the Secretary-General that this Territory had attained full internal self-government and, consequently, the transmission of information thereon was, in its view, no longer appropriate.

i/ Information was also transmitted on 10 October 1978 concerning Tristan de Cunha for the year ending 30 June 1978.

j/ Period extends from 1 July of the previous year to 30 June of the year listed.

k/ The territorial Government had changed its fiscal year from 1 July-30 June to 1 October-30 September.

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