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Fifty-third Session

VERBATIM RECORD OF THE SIXTEEN HUNDRED AND THIRD MEETING

Held at United Nations Headquarters, New York,
on Tuesday, 13 May 1986, at 10.30 a.m.

President: Mr. RAPIN (France)

- Examination of the annual report of the Administering Authority for the year ended 30 September 1985: Trust Territory of the Pacific Islands (continued)

- Examination of petitions listed in the annex to the agenda

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The meeting was called to order at 10.45 a.m.

EXAMINATION OF THE ANNUAL REPORT OF THE ADMINISTERING AUTHORITY FOR THE YEAR ENDED 30 SEPTEMBER 1985: TRUST TERRITORY OF THE PACIFIC ISLANDS (T/1888) (continued)

EXAMINATION OF PETITIONS LISTED IN THE ANNEX TO THE AGENDA (T/1887/Add.1)

The PRESIDENT (interpretation from French): I have to inform members of the Council that most of the documents referred to yesterday during the discussion on the agenda as not having been issued are available this morning. As agreed yesterday, we shall this morning begin hearing petitioners whose requests for a hearing are contained in documents T/PET.10/393-394, 405, 407-409, 413, 418-419 and 427. I propose that today the Council hear the following petitioners: Magistrate Tomaki Juda, Senator Henchi Balos and Messrs. Johnny Johnson, Nathan Note, Kethaesar Jibas, Ralph Waltz and Jonathan Weisgall, on behalf of the people of Bikini; Magistrate Hertes John, Senator Ishmael John and Messrs. David Anderson, on behalf of the people of Enewetak; Mr. William Butler of the Minority Rights Group; Mr. Glenn Alcalay of the National Committee for Radiation Victims; Mr. Peter Watson of the Pacific Islands Association and Mr. James Orak, a Palauan who lives in Portland, Oregon.

I invite the petitioners who are to be heard today to take their places at the petitioners' table.

At the invitation of the President, Magistrate Tomaki Juda, Senator Henchi Balos, Mr. Johnny Johnson, Mr. Nathan Note, Mr. Kethaesar Jibas, Mr. Ralph Waltz, Mr. Jonathan Weisgall, Magistrate Hertes John, Senator Ishmael John, Mr. David Anderson, Mr. William Butler, Mr. Glenn Alcalay, Mr. Peter Watson and Mr. James Orak took places at the petitioners' table.

The PRESIDENT (interpretation from French): I propose that during our meeting this morning we hear the first four petitioners, after which I shall call upon members who wish to ask questions. I would, however, like to stress that the questions may be put to petitioners either today or tomorrow. Petitioners should therefore be present at the meetings today and tomorrow to respond to questions, regardless of when they submit their petitions.

I call first on Mr. Jonathan Weisgall, who will speak on behalf of the people of Bikini.

Mr. WEISGALL: I thank the Council for providing the people of Bikini with the opportunity to address it today.

Just over two weeks ago a serious accident occurred at the Chernobyl nuclear power plant in the Ukraine. The Bikini people join, I am sure, with the members of the Council in expressing their deep sympathy for the Soviet people affected by this accident.

Although the differences between the accident at Chernobyl and the planned nuclear-weapon tests at Bikini are obvious, the Chernobyl accident nevertheless has special meaning for the Bikini people. The soil of Bikini Island remains contaminated today after the 23 atomic and hydrogen bombs the United States tested there between 1946 and 1958. The members of the Council know all too well about the ill-fated attempt in 1969 to clean up Bikini, an attempt whose failure did not become known until nine years later when tests showed that food grown in Bikini's contaminated soil and ingested by the people there exceeded acceptable radiation standards.

The Bikini Atoll Rehabilitation Committee (BARC), which is an independent blue-ribbon committee of scientists established by the United States Congress in 1982 to study the feasibility and cost of cleaning up Bikini Atoll, has just issued a comprehensive report on three possible means of removing or treating Bikini Island's soil to reduce levels of radioactivity to acceptable standards. Copies of this report, as well as earlier BARC reports, are available to members of the Council. Should it become necessary, the Bikini people hope that the knowledge reflected in these reports and the results of experiments at Bikini may prove useful to Soviet scientists as well.

Permit me now to turn to matters directly affecting the Bikini people.

The question of the clean-up and resettlement of Bikini Atoll has been under consideration for a long time. It has been studied for more than three years by

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the Bikini Atoll Rehabilitation Committee. The Compact contains a commitment to clean up and resettle Bikini Atoll, as does an agreement settling a lawsuit between the Bikinians and the United States.

One might think, after all this activity, that a clean-up and resettlement would be close to becoming a reality. Such is not the case. Indeed, the budget for fiscal 1987 sent by President Reagan to Congress provides no funds to continue work on the clean-up and resettlement of Bikini.

In May 1984 the Bikini people filed suit against the United States seeking a court order to force the United States Government to clean up Bikini Atoll. Nine months later, in March 1985, the lawsuit was settled, as the Government stated in a memorandum of agreement that it

> "views with favour the rehabilitation and resettlement of Bikini Atoll by the people of Bikini and pledges to the people of Bikini to use its best efforts to facilitate the steps necessary to achieve these objectives".
>
> (T/COM.10/L.355, p. 2)

Pursuant to the memorandum of agreement, the United States has agreed to provide funds under article VI of the Compact Section 177 Agreement "to assist the people of Bikini in their resettlement of Bikini Atoll". The agreement also provides that

> "The United States intends that these funds be used for resettlement activities which, to the maximum extent practicable, contribute to the rehabilitation of Bikini Atoll, and especially Bikini Island." (p. 3)

Under the agreement, the availability of these funds depends upon the following three conditions: first, the submission to Congress of a final report by BARC, the science committee; secondly, acceptance by the people of Bikini of this final report; and, thirdly, the development of a plan for the expenditure of the funds.

(Mr. Weisgall)

It was premature last year for the Administration to seek these rehabilitation funds since the Compact had not yet passed Congress. Nevertheless, the United States House of Representatives voted to add to the fiscal 1986 budget $8 million for the initial funding for the clean-up of Bikini Atoll by establishing a base camp on nearby Eneu Island for logistical support for the clean-up. The United States Senate voted against this measure, however, and all the two Houses could agree upon was a $237,000 appropriation to work on planning for the base camp. The Senate took the view that funding for the clean-up and resettlement should be in the President's budget. Congress, said the Senate, should not be put in the position of adding on funds for such a matter already cleared by the Executive Branch.

What has happened in the last 12 months since the Bikinians last appeared before this Council? First, Congress, as the Council is aware, has passed the Compact and has added a specific provision to strengthen the United States commitment to clean up and resettle Bikini. Section 103 (1) of the Compact declares it to be United States policy to "fulfil its responsibility for restoring Bikini Atoll to habitability", and this commitment is specifically "supported by the full faith and credit of the United States". This section of the Compact thus translates a legal document, the memorandum of agreement terminating the lawsuit, into Congressional law by requiring the automatic appropriation of funds to implement the settlement agreement as soon as the above three conditions are met.

In addition, in the last year BARC has issued three reports - in November 1985 and in January and March of this year. As to the main island at Bikini Atoll, Bikini Island, BARC is studying three different clean-up methods. The first is to remove the top foot or so of topsoil, which would effectively rid the soil of radioactive caesium-137. The other two methods - treating the soil with

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potassium-rich fertilizer and flushing large amounts of seawater through the soil - might block the uptake of radioactive caesium-137 from the soil into Bikini's plants. The scientists need to continue their experiments for about two more years before they can determine the effectiveness of these two methods. However, neither method would rid the soil of caesium-137. Moreover, no one knows whether this blockage would continue in the future after fertilizer applications or seawater flushing had ceased. For these reasons, the Bikinians favour the soil-removal alternative.

As to the Atoll's second largest island, Eneu, the scientists have no doubts whatsoever. For the last two years BARC has stated unequivocally that radiological clean-up of Eneu is not necessary, its levels of radiation being one eighth of Bikini's. The island can be resettled now, assuming the availability of imported food. The Committee made the statement most recently in its latest report, dated 31 March 1986, in which it stated simply "Eneu may be resettled now."

In the light of these developments, where do we stand on funding for the clean-up and resettlement effort? The Compact is law, the lawsuit is settled and BARC has stated repeatedly that Eneu Island can be resettled now, but there is no money in the President's fiscal 1987 budget to start the process. Why? Certain United States Government officials argue that since BARC has not produced a "final report", as required in the settlement agreement, no funding is required. This is nonsense. BARC has issued its final report on Eneu, as its Chairman testified before the United States Congress two weeks ago. BARC has concluded that Eneu is safe, assuming the availability of imported food. More experiments are needed at Bikini Island before recommendations can be made as to the safest and most cost-effective clean-up method. But that fact is no reason to delay the Eneu base camp.

(Mr. Weisgall)

Bikini Island will eventually become the main resettlement site, but an Eneu base camp can - and should - be started now. The Compact requires it; the lawsuit agreement mandates it. If no funding is forthcoming, the Bikinians may be in the position of having to go back to court for the sole purpose of seeking an order forcing the United States to honour last year's settlement agreement.

The failure of the United States to clean up and resettle Bikini remains a black mark on the Administering Authority's record, especially in the light of the unique circumstances surrounding the United States removal of the Bikinians and the nuclear testing programme there. After all, jurisdiction over Bikini - and the rest of Micronesia - did not simply switch one day from Japan as a League of Nations Mandate to the United States, as a trusteeship under the United Nations trusteeship system.

The United States governed the Marshall Islands under the law of belligerent occupation from the first United States invasion of the islands on 30 January 1944 until July 1947, when Congress approved the Trusteeship Agreement. The United States Navy acknowledged that point when Admiral Chester Nimitz, the Commander of the United States forces of occupation, issued Proclamation No. 1 to the People of the Marshall Islands, stating:

"The exercise of the powers of the Emperor of Japan shall be suspended during the period of military occupation."

It was during that period of belligerent occupation that President Truman, as Commander-in-Chief, ordered the removal of the Bikini people from their islands and authorized the first two atomic bomb tests at Bikini in 1946. Two important points about those events should be emphasized. First, Admiral Nimitz, in Proclamation No. 1, assured the Marshallese people that their

(Mr. Weisgall)

"existing personal and property rights will be respected"

during the military occupation. Secondly, international laws of war prohibit the annexation of territory under belligerent occupation. According to Whiteman on international law, belligerent occupation

"does not transfer the sovereignty to the occupant, but simply the authority ... to exercise some of the rights of sovereignty ... resulting ... from the necessity of maintaining law and order".

It is clear that the United States violated the laws of belligerent occupation with respect to the Bikini people. Their property rights were not respected, contrary to Proclamation No. 1, and the 1946 tests at Bikini were clearly not a means of "maintaining law and order".

Against that background, the people of Bikini make two specific requests to the Council. First, in your general debate please seek clarification from the United States regarding the clean-up of Bikini. Why is the executive branch not asking Congress for clean-up funds? Is it because the science Committee has not issued its final report? If so, how does that square with the science Committee's unequivocal statement two weeks ago to Congress that its 31 March 1986 report was its final report on Eneu?

Secondly, we request that you consider establishing a committee, with a life of approximately five years, to maintain oversight jurisdiction to ensure that the United States fulfils its obligation to clean up and resettle Bikini. The establishment of such a committee is all the more important in the light of the fact that the Marshall Islands Government will not be able to join the United Nations. As the United States Government told the House of Representatives Foreign Affairs Committee - here I quote from an 18 September 1984 Committee hearing -

(Mr. Weisgall)

"the Freely Associated States, while having sovereignty and full self-government, will not possess the attributes of independence called for in the eligibility criteria of the United Nations Charter".

Another issue of concern to the people of Bikini is the Compact Section 177 Agreement, negotiated between the Government of the Marshall Islands and the Government of the United States. As the Council knows, it establishes a $150 million trust fund that will pay reparations to the peoples of Bikini, Enewetak, Rongelap and Utirik, as well as to the Marshalls Government and a claims tribunal. At the same time, Article X of the Agreement states that it constitutes the full settlement of all claims, past, present and future, of Marshallese citizens against the United States arising out of the weapons testing programme, and Article XII removes jurisdiction from all United States courts to entertain such claims.

As expected, the United States has asked the United States Claims Court in Washington to dismiss the Bikinians' $450 million lawsuit, although, interestingly enough, not on the ground of the so-called espousal provision of Article X. The Bikinians filed an opposing memorandum 10 days ago, and the matter may be argued this summer.

It is the Bikinians' position that Article XII of the Compact Section 177 Agreement, which seeks to divest all United States courts of jurisdiction to hear their claims, is unconstitutional. The United States Congress has rarely sought to deprive claimants of all opportunities to seek judicial redress, simply because that notion is so patently offensive to the United States constitutional system. Court rulings on the issue hold that Congress's control over the courts'

(Mr. Weisgall)

jurisdiction must comply with the requirements of the Fifth Amendment. In other words, while Congress undoubtedly has the power to grant or withhold the jurisdiction of federal courts, it must not exercise that power in a manner that deprives a person of life, liberty or property without due process of law or that takes private property without just compensation.

In a similar vein, President Reagan's former Attorney-General, William French Smith, argued against Congressional efforts to withdraw the Supreme Court's jurisdiction over voluntary school prayer cases. In a letter to the Chairman of the Senate Judiciary Committee, the former Attorney-General contended that

> "Congress can limit the Supreme Court's appellate jurisdiction only up to the point where it impairs the Court's core functions in the constitutional scheme".

Thus both the United States Justice Department and the United States courts recognize that Congress does not possess unlimited power to curtail access to federal courts to assert constitutional claims. Congress may not enact legislation to eliminate an area of jurisdiction in order to control the results in a particular case.

This year marks the fortieth anniversary of the removal of the Bikinians from their homeland and of the first two post-war atomic tests - Operation Crossroads at Bikini.

Thousands of radio stations around the world broadcast the first shot, Test Able, on 1 July 1946. About an hour before the explosion, an electronically operated metronome started ticking away the last minutes aboard a target ship stationed several hundred yards from the site of the blast. The metronome was hooked up to a radio transmitter, and its steady beat was heard in millions of homes around the world.

(Mr. Weisgall)

At zero hour a voice on the radio blared out "Listen world, this is Crossroads!" The explosion lasted one ten-millionth of a second. Our generation has become inured to film clips of the bomb, but in an earlier year it was new, awesome and terrifying. One correspondent wrote:

"It was like watching the birth and the death of a star, born and disintegrated in the instant of its birth. When the flash came it lighted up sky and ocean with the light of many suns, a light not of the earth."

That flash reflects the rich and romantic history of Bikini. It was discovered by Otto von Kotzebue, a Russian explorer and son of a noted German novelist and playwright, whose public dispute with Goethe in the early 1900s had led him to emigrate to Russia.

(Mr. Weisgall)

Aboard von Kotzebue's ship at Bikini in 1825 were two other extraordinary men: Nicholai Petrovich Rimskii-Korsakov, a Russian naval officer and uncle of the great Russian composer Nicholai Rimsky-Korsakov; and Adelbert von Chamisso, a poet turned botanist, whose ballads were set to music by Robert Schumann and whose writings about Marshallese coral atolls Charles Darwin relied on in his theory of evolution.

Dozens of ships were used as guinea pigs in Bikini's lagoon in 1946 to test the effects of an atomic bomb on naval vessels. These ships told stories of their own: the Nevada, sunk by the Japanese at Pearl Harbor but raised in time to see service from Omaha Beach to Okinawa; the German battleship Prinz Eugen, which joined the Bismark in sinking H.M.S. Hood, the pride of the British Navy; and the Nagato, flagship of the Japanese Admiral Yamamoto.

Both Bikini and its people have attracted world attention since 1946. Both have become symbols of the times, demonstrating the destruction, uncertainty and ignorance of the atomic age. Bikini was perhaps the perfect symbol for man's attempt to harness nature. Forty years ago, E.B. White wrote these words about the upcoming atomic tests at Bikini:

> "Bikini Lagoon, although we have never seen it, begins to seem like the one place in all the world we cannot spare; it grows increasingly valuable in our eyes - the lagoon, the low-lying atoll, the steady wind from the east, the palms in the wind, the quiet natives who live without violence. It all seems unspeakably precious, like a lovely child stricken with a fatal disease."

Bikini was the world in miniature. Radioactivity was and remains the disease that could destroy it. Forty years later, Bikini Island is still not fit for habitation and the Bikinians remain exiles from their homeland. The story, sadly, has no ending.

The PRESIDENT (interpretation from French): I call on Mr. William Butler, who will speak on behalf of the Minority Rights Group.

Mr. BUTLER: First, I wish to thank the Council for the opportunity to address the Trusteeship Council - a body in which I have spoken on other issues - on the issue of the Trust Territory of the Pacific Islands.

As members know, the Minority Rights Group has the privilege of consultative status with the United Nations Economic and Social Council and takes its brief from the application of the Universal Declaration of Human Rights, with whose adoption I was very privileged to be associated over 40 years ago at the beginning of this great world Organization.

We are here again today, as on 20 May 1983, to defend the right of the Belauan people finally to determine the environment in which they want to live, free of external and dominating influences.

The previous speaker referred to the Chernobyl accident in the Soviet Union, and appropriately enough it underlines the main point that I wish to make today. For one of the first times in national history a people has decided, through a freely elected constitutional convention, to provide in its Constitution that nuclear materials, nuclear power plants and nuclear ships shall not be allowed to be present on its territory. That constitutional provision, enacted in 1979, would require the affirmative vote of 75 per cent of those voting in a referendum conducted for that purpose to override that constitutional provision in the Belauan territory.

That constitutional provision, which, as I say, is unique in the annals of history, was enacted despite the opposition of the administering Power, which has said time and again that such a provision, which would prevent it from putting its ships or nuclear materials on that territory, would make it impossible to accept

(Mr. Butler)

a Compact of Free Association. Time and again the administering Power has advised the Belauan people that they had better reconcile the provisions of their Compact of Free Association with their constitutional provisions for a nuclear-free zone.

I am happy to report to the Council that that has not been the case to date, in spite of four well-financed, systematic campaigns to persuade the Belauan people to override that constitutional provision.

The first of those campaigns occurred in 1979, when the Belauan people adopted the Constitution as it stands today. The adoption of the Constitution was by a referendum in which 92 per cent of those voting approved the Constitution with its nuclear-free provision. Following that approval there was another attempt by the administering Power, in concert with others, to submit a second constitution to the Belauan people that would include provisions inconsistent with the nuclear-free provisions of the first Constitution. I am happy to report that again the Belauan people overwhelmingly rejected that attempt to deprive it of its nuclear-free provisions. A new plebiscite was then submitted to the Belauan people, which by a vote of over 75 per cent affirmed the original Constitution, which is in effect today.

There were three other attempts by the administering Power and others to overcome the fundamental prohibition of nuclear materials in Belau. First, a decision was made to change the tactics. A basic fundamental decision was made to proceed by way of the approval of a compact of free association which would have included provisions that were inconsistent with the constitutional prohibition of nuclear materials. So, in 1982, a compact of free association was submitted to the Belauan people, signed by its Government and submitted to a referendum, in which 62 per cent of the Belauan people voted in favour.

(Mr. Butler)

That Compact contains provisions which are inconsistent with the Belauan constitutional provisions against nuclear materials and a lawsuit was filed in the Belauan Supreme Court that resulted in the determination by the Court that the 62 per cent vote did not have the effect of overruling the constitutional provision that required a 75 per cent vote to change the nuclear-free provision. Owing to the fact that the provisions of the Compact were in such direct conflict with the nuclear-free provision the Compact did not survive. It was then that the administering Power advised the Belauans that, if they wanted a compact of free association, they had better reconcile the provisions of the compact with the Constitution.

I must add that the Belauans want a compact of free association with the United States, but at the same time they do not want to give up the basic right under their Constitution not to have nuclear materials on their territory.

(Mr. Butler)

The previous speaker mentioned Chernobyl. Just imagine what would happen in a small archipelago, with roughly 15,000 people, if there were a nuclear accident there. The effects of such a disaster would not be limited to 20 miles, as it is around Chernobyl in the Soviet Union: it would wipe out the entire country, pollute the small lands and lagoons and destroy the nation and any possibility of life for future generations. So there is ample reason for the Belauans, in their wisdom, to insist that the nuclear-free zone should be sustained in the years to come.

But that was not enough. Again in 1984, a new Compact was agreed upon containing provisions similar to those in the Compact submitted in 1982. This new Compact was also submitted to a plebiscite, in the hope that that they would get more than 75 per cent of the vote, thereby - in their theory - overriding the provisions of the Constitution. By the way, that theory is not very well sustained in law, in our opinion, because even if they had obtained more than 75 per cent of the vote, there is the legal question whether or not terms within a Compact of Free Association can in effect overrule the provisions of the Constitution, which stipulates that these provisions can be overruled only in a plebiscite called for that specific purpose.

In that plebiscite held in 1984, 66 per cent of the Belauan people voted to support the Compact and 34 per cent voted to opposed it. Although the issue is very complicated and involves inconsistencies between the Compact of Free Association and the Constitution, again the administering Power and those acting with it failed to gain a 75 per cent vote for their attempt to overrule the Constitution.

(Mr. Butler)

The last attempt in this sustained campaign to alter the political will of the Belauan people occurred on 21 February 1986 - not so long ago - when the people of Belau were asked to approve the latest Compact of Free Association, which would give the administering Power

"the right to operate nuclear-capable or nuclear-propelled vessels and aircraft within the jurisdiction of Palau".

This time the Compact was approved by 72 per cent of those voting. We submit that such approval is not valid under the Belauan Constitution, which expressly prohibits "nuclear-weapons" and "nuclear-power plants" from being "used" or "stored" within Belau without the "express approval" of 75 per cent of the votes cast in a referendum on this specific question.

The question whether this Compact complies with the Constitution will be submitted to the Belauan courts in the near future. We feel that the 1983 decision holding that such a provision in a Compact of Free Association cannot overrule the provisions of the Belauan Constitution will be sustained, and that that decision will be followed in the days to come.

As further evidence of the relentless pressure of the administering Power to attain its goals - which are military domination and the use of nuclear weapons on Belauan territory - we note that this Compact was signed on 10 January 1986. There was neither an English nor a Belauan language version of the Compact available to the general public for over three weeks. It is respectfully submitted that, because of the complicated nature of this question and because there are various arguments as to whether or not the Compact must comply with the provisions of the Constitution and whether or not a referendum must proceed directly under the Constitution, there was insufficient time for public education on such an important act of self-determination.

(Mr. Butler)

Nuclear-free zones are a growing institution in the Pacific: witness the position of the New Zealand Government in refusing to allow ships of the administering Power in its ports. Other newly independent countries in the South Pacific are also examining the viability of these goals. But Belau is the only Micronesian State with a nuclear-free Constitution.

We should like to submit to the Trusteeship Council that the four attempts by the administering Power described in this statement to alter the political will of the Belauan people are contrary not only to the norms and standards of international law, but also to the bilateral commitments of the administering Power set forth in the Trusteeship Agreement of 1947.

Before the Trusteeship Council considers the question of the termination of the Trusteeship Agreement, it has the obligation - and we as an organization in consultative status must urge it to fulfil the obligation - to inquire into the question whether or not there has been improper interference in the fundamental rights of the Belauans to "freely express" their wishes for their future.

If the Council does not feel that the inquiry suggested by us today is feasible, then at the very least it should, in view of the obvious conflict between the military-nuclear objectives of the administering Power and the expressed wishes of the Belauan people to live in a nuclear-free zone, retain a monitoring function to assist the people of the Trust Territory of the Pacific Islands in the eventual achievement of full independence if they so wish at a future date. Indeed, the General Assembly determined that such a course should be followed in the question of the Cook Islands - and I refer the Council to General Assembly resolution 2064 (XX) of 16 December 1965.

(Mr. Butler)

I thank the Trusteeship Counci for allowing us to come here to present these views to it today. We should like to submit as part of our statement video documentary evidence prepared by Mr. James Heddle and his associates at the time of the most recent referendum, on 21 February 1986.

The PRESIDENT (interpretation from French): I shall consider during the course of the day the requests concerning petitions submitted in forms other than oral presentations.

I now call on Mr. David Anderson, who will speak on behalf of the people of Enewetak.

Mr. ANDERSON: First, I should like formally to introduce to the Truseeship Council the members of the Enewetak delegation here this morning. To my right is Senator Ismael John, who represents Enewetak in the Marshall Islands Nitijela. To his right is Johnson Ernest, the Clerk of the Council of Enewetak. Mayor Hetes John, to whom you referred earlier in the meeting, Mr. President, is unable to be with us today but, through us, brings you his greetingss.

With termination of the Truteeship at hand, the time has come to examine the record of the United States as Administering Authority of the Trust Territory of the Pacific Islands, of which Enewetak is a part - and this would appear to be the place to do so.

The United States undertook its trust pursuant to a joint resolution of Congress signed by President Truman on 18 July 1947. With some exceptions the record, from our point of view, is one of 39 years of malfeasance and neglect - sometimes benign, more often not - beginning with the unauthorized taking of Enewetak to use as a testing ground for thermonuclear weapons. To make matters worse, this body often failed to face up to the breaches of the Trusteeship Agreement, leaving the Administering Authority to have its way with Enewetak regardless of the consequences.

(Mr. Anderson)

Whatever else one may learn from this experience, it demonstrates that when you have a Trusteeship Agreement with no effective power in the beneficiary to enforce it, the result is likely to be the type of self-serving administration which defines United States governance in this case and which accounts for the injuries and indignities visited upon the people of Enewetak from that day to this. Indeed, the strongest argument for termination of the Trusteeship is that Enewetak has had enough of a bad thing. It is time to discharge the trustee, hold it accountable for its abuse of trust and, with some transitional assistance, set the people there free.

(Mr. Anderson)

The assessment of the United States administration requires reference to its undertakings. These are set forth in articles 5 and 6 of the Trusteeship Agreement. Article 5 states:

"In discharging its obligations under Article 76 (a) and Article 84, of the Charter, the Administering Authority shall ensure that the Trust Territory shall play its part, in accordance with the Charter of the United Nations, in the maintenance of international peace and security. To this end the Administering Authority shall be entitled:

"1. to establish naval, military and air bases and to erect fortifications in the Trust Territory;

"2. to station and employ armed forces in the Territory; and

"3. to make use of volunteer forces, facilities and assistance from the Trust Territory in carrying out the obligations toward the Security Council undertaken in this regard by the Administering Authority, as well as for the local defence and maintenance of law and order within the Trust Territory."

If there was any authority in the Agreement to use Enewetak as a thermonuclear testing ground, it must be found in article 5. No other provision bears on the point.

The affirmative obligations to the people of Enewetak contained in Article 76 (b) of the United Nations Charter are spelled out in article 6 of the Trusteeship Agreement, which directs the Administering Authority to

"1. foster the development of such political institutions as are suited to the Trust Territory and... promote the development of the inhabitants of the Trust Territory toward self-government or independence as may be appropriate... and to this end... give to the inhabitants of the Trust Territory a progressively increasing share in the administrative services in the Territory... develop their participation in government... give due

(Mr. Anderson)

recognition to the customs of the inhabitants in providing a system of law for the Territory; and... take other appropriate measures toward these ends;

"2. promote the economic advancement and self-sufficiency of the inhabitants, and to this end... regulate the use of natural resources; encourage the development of fisheries, agriculture, and industries; protect the inhabitants against the loss of their lands and resources; and improve the means of transportation and communications;

"3. promote the social advancement of the inhabitants, and to this end... protect the rights and fundamental freedoms of all elements of the populations without discrimination; protect the health of the inhabitants... and

"4. promote the education advancement of the inhabitants, and to this end... take steps toward the establishment of a general system of elementary education; facilitate the vocational and cultural advancement of the population; and... encourage qualified students to pursue higher education, including training on the professional level." (T/1888, p.247)

These are the duties the trustee solemnly undertook and pledged to fulfil. To our knowledge the Administering Authority has not sought to amend the Agreement or to be excused from performing its obligations under it. On the contrary, it has appeared here year after year to report that the Council's will is being done. These hopeful reports conceal a record in which there is little to take comfort from and much to fault.

The first breach of trust, and the cause of many to follow, was the taking of Enewetak to use as the site of the United States thermonuclear-weapon-testing programme. This step, clearly at odds with the trustee's obligation - and I quote from the Agreement - to "protect the inhabitants against the loss of their lands and resources" was an act of high international trespass for which the United

(Mr. Anderson)

States has yet to be held fully accountable and for which the people of Enewetak have yet to be adequately compensated.

The taking occurred in two steps: the first, lawless; the second, merely high-handed. President Truman approved the use of Enewetak for the tests without consulting either this body or the Security Council and without obtaining the leave of either. From the documents we have seen, the only question raised at the White House was when to tell the Security Council that the United States had closed Enewetak Atoll for the tests. The United States did not consider whether the Trusteeship Agreement permitted Enewetak's use as a testing ground nor did it seek the opinion of this body or any other on that question.

For the record, it should be noted that the question of the legality of the United States taking was raised here in 1954 during the debate following the ill-advised Bravo test at Bikini that year. From what now appears, the United States went forward with that test after it learned of a critical change in wind direction that should have caused it to postpone the test. The result was a disaster in which a severe dose of fall-out fell on the inhabitants of Rongelap and Utirik and the crew of a Japanese fishing vessel, the Lucky Dragon, that happened to be in the area. International concern over that incident led to the debate in which, the record makes clear, the United States was unable to state a satisfactory legal basis for the taking of Enewetak and Bikini.

The representative of India, the late Krishna Menon, argued that the testing could not be justified in the name of preserving international security, that is, as an incident to the status of the Marshalls as part of a strategic Trust Territory. I quote from his argument in this Council:

"Taken from the point of view of a Trust Territory, what is in trust? The land, homes, life, opportunity, the civilization of these populations...

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"The use of the Territory as a proving ground is not a strategic purpose. It does not come under any of the provisions of the Charter, under any of the clauses of the Trusteeship Agreement. It does not turn on the merits of the proposition that it is either for the defence of the territory of the United States or for the defence of these islands. It so happened that [Enewetak and Bikini] were more convenient than any part of the home territory."

I am quoting from his remarks at the 554th meeting of the Trusteeship Council, 9 July 1954, taken from pages 82 and 89 of the verbatim record.

Whether or not he had knowledge of the discussions at the White House that led to the use of Enewetak, Mr. Menon hit the nail on the head. The United States representative to the Trusteeship Council, Mr. Sears, admitted as much. As he put it, after declining "to go into the legalities of the matter", the "representative of India knows well that we cannot conduct this large-type experiment elsewhere, much though we would like to". This is from pages 102 and 103 of the verbatim transcript of that day's debate.

If, as we believe, the appropriation of Enewetak for use as part of the nuclear-weapons proving ground constituted an act of trespass, the means by which the United States implemented the decision was, while high-handed, more in keeping with what one might expect from the trustee.

Captain J.P.W. Vest, the recently appointed military Governor of the Marshalls, was sent to Enewetak to negotiate the terms of the move with the 137 Enewetak survivors of the battle there. Captain Vest said that the United States had settled on Enewetak as the place for a series of tests - not otherwise explained. If the people agreed to leave, the United States, he said, would move them to Ujelang, a small uninhabited atoll 125 miles to the south-west.

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Captain Vest told the people that they would be given title to Ujelang, a step made necessary by custom and culture, and that the United States would look after them while they were living on Ujelang - that is, until they returned to Enewetak.

In keeping with this agreement, on 19 December 1947, a Navy LST landed at Enewetak. The next day the Navy boarded on the ship the members of the community and as many of their possessions as they could gather on short notice. The LST arrived at Ujelang on 21 December. The people unloaded their few household goods and took posession under a quitclaim deed provided by the Navy in the brief ceremony held the next day. A few days later the small contingent of Navy personnel declared Ujelang ready for habitation and left. The long saga of the Enewetak people's 33-year exile on Ujelang had begun.

The history of the Ujelang exile is not a happy one. Measured against the Administering Authority's undertaking to the United Nations and to its ward, the record is one of such neglect as to constitute an abuse of trust. The United States, it may be recalled, had undertaken, pursuant to article 6 of the Trusteeship Agreement, in Captain Vest's meeting, or both, to look after this small group of displaced persons until they were back home again.

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The United States would, it had promised, set them up in housekeeping on Ujelang. It would provide doctors and teachers, a market for their copra, goods for their store, and a means to travel back and forth around the Marshalls and to keep in touch with their friends and families on other atolls. The United States also agreed to see to their political advancement while keeping their old traditions intact. Those were the promises. This is what actually happened:

The Enewetak people's stay on Ujelang was a period of great hardship, both material and spiritual. The lagoon was much smaller than that at Enewetak. The soil was poor and supported little besides the coconut trees left over from the plantation. Moreover, many of the coconut palms dated back to the late 1880s, when the plantation was established; as the trees grew old they tended to become unproductive, a development which made it harder for the people to feed themselves and to produce copra for trade. The isolation of Ujelang from the rest of the Marshalls made it difficult to engage in trade, and field trip visits by Trust Territory ships were infrequent and unreliable.

The earliest reports by the Navy Civil Administration unit in charge of Ujelang concentrated on the provision of supplies, matters of local administration, and health and sanitation conditions. As early as 24 November 1948, however, the Enewetak people were suffering from a food shortage. The field trip report for 13 December 1948 notes that the people reported that "the elementary-school pupils were given a vacation for the month of November because of a shortage of food on the island". The report noted also that "rats were a problem in that they ate much of the copra left in the sun for drying".

By April 1949 another major problem looming in the future was beginning to concern the Enewetak people. They had been told that

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"eventually the Navy would stop supplying them with trade goods and copra lifts and that in such case the people of Ujelang would have to manage their own trade".

By late 1949, food problems as well as health and sanitation problems were once again a serious problem. On 4 September 1949, according to a Naval Civil Administration report,

"A council meeting was held... [The Enewetak people] feel that the food situation on Ujelang is not good. Taro is difficult to raise because the soil is poor and scarce. They also state that not as much food can be obtained from the sea here as could in Enewetak."

The next field trip report, in May 1950, noted that

"Prior to the field ship's arrival, the Ujelang community was without food, as they had not received enough food the last trip due to a small order.

"Because of the food shortage, the school has operated intermittently during the past few months. An excellent building was provided by the Navy in their resettlement programme, but the instruction is only average.

"In cleanliness the village rates a poor grade. Practically all of the cisterns need cleaning out and a dead rat was found floating in one. Several cisterns are of no use as there are no gutters to allow the rain water to enter after being caught on the covering roof. One cistern and one head were condemned, and the health aide, Lomboi, and sanitation policeman, Lorencia were informed of Civil Administration's disapproval and instructed to effect a change for the better."

In 1951, the report noted that

"A school teacher was brought to Ujelang this trip as the field trip party found no teacher there while on the last trip.

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"The health and sanitation condition of Ujelang can only be considered as fair. The cistern covers are broken and torn, while the lack of proper garbage disposal is abetting the rat problem."

In the view of the people, matters were at a point of crisis by 1952. Most of the Enewetak people's sailing canoes were rendered unusable by a severe shortage of sailcloth, paint, fishing-net material and hooks. In response to the Enewetak people's repeated requests for those materials, a special field-trip ship arrived in December 1952, but brought only enough sailcloth for two canoes, paint that was unsuitable for the canoes, and little else of use.

Hunger and isolation also marked the second decade of the Enewetak people's exile. These difficulties stemmed from the inadequacy of Ujelang's own resources to support the Enewetak people and from the insufficiency of the field-trip ship service of the Trust Territory Government.

In its 1958-1959 annual report to the United Nations, the United States acknowledged "inadequacies of the Ujelang field-trip service", which it characterized as "long unsatisfactory to the Administration and to the people of Ujelang". These difficulties, the United States assured the Trusteeship Council,

"have now been satisfactorily worked out. During the past year, a field-trip ship service to Ujelang once every two and a half months was maintained through a combination of shipping from the Marshall Islands district and supplementary service from the Ponape district".

But while the United States reports to this body blandly asserted that the condition of the Enewetak people was "satisfactory", other sources indicated that the United States had fallen far short of its obligations in the Trust Territory. A 1962 editorial in The New York Times commented that reports of

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"Schools with ill-trained teachers housed in slovenly dirt-floored shacks; hospitals without enough drugs and doctors; air and shipping services inadequate for inter-island travel; pinch-penny budgets and unprogressive policies"

showed that the United States had done a "disgracefully bad job" in administering the Trust Territory.

In October 1966, Peace Corps volunteers were first sent to Micronesia. The first group totaled 445 volunteers; by 1968 as many as 800 were stationed there for two-year terms. Two volunteers were sent to Ujelang, with dismaying results. As High Commissioner Norwood related in 1967,

"Two Peace Corps volunteers, who reportedly were selected for Ujelang service with great care, gave up after relatively short tenure on this island because of the demoralizing atmosphere which they apparently could not improve with a Peace Corps approach to problems of that kind."

By 1967 conditions had become extremely bad. The District Anthropologist noted that

"The field-trip ship is scheduled to call at Ujelang every three months. Intervals between visits are usually much longer."

Referring to the Enewetak people as "dispirited and homesick", High Commissioner Norwood acknowledged that there was a severe rat problem on Ujelang. Further, the housing situation was poor as the original buildings deteriorated and could not be replaced or repaired because of a lack of building materials. As the population grew the problem worsened.

The most pressing problem, however, was the lack of adequate food. High Commissioner Norwood observed in 1967 that the Enewetak people "suffer food

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shortages from time to time". A New York Times article by Robert Trumbull on 31 October 1967 confirmed that observation, reporting that "Many of the natives of Eniwetak and Bikini... are now going hungry for weeks at a time". The article continued:

> "'Yes, we are often hungry,' Naptali, a native of Enewetak, said in an interview here. A Government construction worker [at Majuro], he lives with his wife and child in a one-room beach shack made of corrugated metal sheeting.
>
> "...
>
> "The Enewetak people transplanted to Ujelang are so far off the normal Marshall Islands trade routes that staple food supplies often run out weeks before a ship appears, said Naptali...
>
> "'At such times we have had to live on coconuts, fish and arrowroot,' he said through an interpreter. 'It's no good telling us that our ancestors lived on this kind of diet, for we have been accustomed to imported rice and canned foods in the Marshall Islands for generations'".

As it had in the 1950s, the United States responded by acknowledging the inadequacy of the field-trip ship service and promising to improve it.

By January of 1968, conditions were so bad that residents of Enewetak took up a collection for a relief fund for the people living on Ujelang. Moreover, the rat problem was still pressing. In January 1968, a delegation including Members of Congress visited Ujelang. As Representative Lloyd Meeds put it, "It was the unanimous opinion of the group visiting Ujelang that conditions there were extremely bad".

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The hardships that characterized the period from 1968 to 1980 were similar to those encountered in the earlier period. But with the prospect of the long-awaited return to Enewetak, a prospect that became a concrete possibility in 1972 and which occurred in 1980, the injuries to the spirit were somewhat ameliorated.

Before we turn to the present status of the administration of the Trust, a brief summing up of the Administering Authority's record during the Ujelang exile is in order. The period began in 1947 with the taking of Enewetak and ended with the return in 1980. During those 33 years, much of Enewetak Atoll was destroyed or damaged by the testing of thermonuclear weapons and the subsequent clean-up. It will, as you all know, never be the same again.

Other abuses of trust and administrative shortcomings account for the many ways in which the Enewetak people suffered during the exile. Most, if not all, of the deprivations can be directly attributed to the maladministration of the obligations under Article 6 of the Trusteeship Agreement, obligations placed there by the United Nations for the benefit of the Enewetak people and the other Pacific Islanders in the Trust Territory.

First, can it be said that the meagre efforts to help the people of Enewetak carry on a pathetically small trade in copra promoted their economic self-sufficiency as required under Article 6, Section 2, of the Trusteeship Agreement? I doubt that it can. To this day, there is no industry on Ujelang and hardly any agriculture.

Was anything done to encourage the use of fisheries? Again, the answer is "No". Indeed, the Administering Authority could not even provide the sailcloth or the right paint needed to permit the islanders to repair their outrigger canoes.

What of transportation and communications? During the exile the primary connection these people had with the rest of the world was the infrequent

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field-trip ship service. As you know, the field-trip ship rarely came on time and often failed to come at all.

The health of the inhabitants, which the Administering Authority was charged to protect under Article 6, Section 3, was constantly under attack by rats, by hunger and near starvation, by unsanitary water and filthy buildings and by the malaise associated with the virtual abandonment of this group.

School was kept on a hit-or-miss basis. If there was a teacher, if there was food, if there was the inclination, there would be a class. If not, a day's education was lost, if not that of a month or more. The basic requirement of Article 6, Section 4, that the Administering Authority provide the people of Enewetak with an elementary-school education, often went unfulfilled.

To find from this record the wherewithal for the promotion of social advancement and the protection of rights and fundamental freedoms, or the means for cultural and vocational advancement, one must wish it. It is not there in fact. What there is, is a record of 33 years of unrelenting neglect, interrupted only by the pledges made here - to be broken there - to do better next year.

This, then, was the state of affairs until April 1980. Then, in a moment of expectation and relief, the people of Enewetak were resettled on their home atoll after the 33-year exile on Ujelang. The ceremony was a matter for international attention, and for a moment the prospect for the future seemed bright. The United States had built over 100 homes, sturdy, functional buildings, to house the returning population, as well as a meeting building, a dispensary, a school and docks on Medren and Japtan, although not on Enewetak. As it turns out, however, the return has been plagued by problems because the reconstruction programme left too much for later.

The most critical shortcoming, one that affects the community to this day, stems from the fact that the replanted coconut groves, the breadfruit, pandanas,

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arrowplant and other local foods, were still seedlings in April 1980 and are still years from bearing the quantities of food necessary to restore the traditional diet and to provide the means of income from copra production that the resettlement plan calls for. Until those new plants provided enough to eat the people were to be provisioned from food imported from the United States. The food programme, which continues to this day, is still the mainstay of the community's existence and must be continued for several years to come if the people are to remain on Enewetak.

The lack of mature food-bearing plants was obvious in April 1980. What was not so obvious, but what was to become more and more of a problem as time went on, was the effects of the inability of the dri-Enjebi to resettle their traditional lands on the northern part of the atoll. Enjebi and the three nearby coconut islands, on which some 12,000 radioactive coconut trees are growing, could not be resettled in 1980 because of the cesium that remained in the soil after the clean-up. The effects of the radiation from the remaining cesium convinced the experts that the risks of resettlement were unacceptable. As a consequence, the Enjebi people must live on lands owned by the dri-Enewetak on the southern part of the atoll. The problem is that the Enjebi people have overstayed their welcome - not out of choice, but out of necessity. And while they are entitled to stay there indefinitely, doing so creates anxiety and strife. Several of the Enjebi people returned to Ujelang in preference to living where they are not really wanted. And those who remain on Enewetak feel hemmed in by tradition and the disapproval of their neighbours whenever they seek to improve their household by the addition of a garden, a pigpen or some other modest change that requires the use of land they do not own.

There are several other problems. Because the crops are not yet fully bearing and because the people are still significantly dependent on imported food, there is little work to occupy them from sun-up to sundown. They cannot work after sundown, for there is no electricity to light the work-bench. A recent count revealed that

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only about 45 persons of the 800 or so people who make up the population hold full- or part-time jobs, most of them off the atoll in places like Majuro and Kwajalein.

The Trusteeship Agreement imposes a requirement that the United States seek to provide universal education, at least through elementary school. That obligation, like the others in Article 6, gives way time and time again to obstacles created by food shortages, by the difficulty of attracting qualified teachers and by the fact that the schools to which the Enewetak children graduate are in Majuro, some 650 miles away. To succeed, then, means to be separated from one's family. Moreover, because Enewetak children generally have been very badly prepared, they tend not to do well at the highschool in Majuro. We believe that only 8 members of the Enewetak community have been to college, and only one has graduated. At the moment, only two of them reside on Enewetak. Mayor Hertes John, one of the village leaders, and a wise and humane politician by any standard, has a third-grade education. This is not an uncommon circumstance - the norm, rather than the exception.

The resettlement of Enewetak and the extensive clean-up and reconstruction leading to it, are the high points in the United States administration of Enewetak. We give the United States credit for making good on its commitment to return the people to Enewetak and for providing many of the underpinnings to support that return. But the job is unfinished. Moreover, unless the United States provides to this body the requisite assurances that it will complete the job, termination of the Trust will permit the Administering Authority to withdraw with promises unfulfilled and tasks unfinished. Last year, in presenting our petition here, we questioned the adequacy of the arrangements for the transition. Ambassador Feldman, claiming that the United States had not yet made up its mind whether to seek termination or not, called some of our concerns "laughable" and assured you that the United States would continue the Enewetak support programme for another two or three years.

(Mr. Anderson)

As with many of the promises that the United States has made here in the past, the Administering Authority failed to make good on this one. There is not a dollar in the Department of Interior fiscal year 1987 budget to Congress for Enewetak support. There are no funds to continue the food supplement programme, no funds to continue the replanting programme, no funds for the Wetak II - the small vessel supplied by the United States to permit the people to go back and forth to Ujelang; no money, in a word, to keep the community going during the transition from trusteeship to free association.

Let me spend a minute explaining the difficult position in which this United States failure has placed the people of Enewetak. The food programmes currently expire at the end of this fiscal year, that is to say on 30 September 1986. At the moment, there is no money in the budget to continue the programme in fiscal year 1987. Yet food for this programme for the fourth quarter of 1986 - that is, the first quarter of fiscal year 1987 - must be ordered in June, just four or five weeks from now. So at this very moment there is a stark question facing the people of Enewetak. How are they to pay for the fourth quarter food allotment they will need to continue to live there?

There is no ready answer to that question. The community itself has no funds available for that purpose and will have none. At least $115,000 is necessary. We believe it would be in the interest of all concerned if this body would make clear to the Administering Authority that it finds this situation antithetical to the Administering Authority's obligation under the Trusteeship Agreement, and that it directs the Administering Authority to take whatever steps are required to make sure that there is no interruption in the food programme.

(Mr. Anderson)

The Administering Authority may also wish to want to walk away from its obligation to provide the funds for the eventual rehabilitation and resettlement of Engebi. The Administering Authority, during both the Administrations of President Carter and the present Administration, has acknowledged an obligation to complete the resettlement of Enewetak by rehabilitating Engebi. At one time or another, the Administration has agreed to put either $8.5 million or $10.0 million in trust for that purpose. Aware of this obligation, Congress included funds for the trust in the Compact of Free Association Act of 1985. Like the Enewetak support programme, for which funds are also included in the Compact Act, the funds for Engebi resettlement are couched as an entitlement. Nevertheless, the Administering Authority refused to include any money for this purpose in the fiscal year 1987 Interior Department budget it submitted to Congress earlier this year.

Before I conclude, I want to put one other matter on the record for what it says about the Administering Authority's attitude toward its obligations as trustee. The people of Enewetak filed a lawsuit against the Administering Authority in 1982 in the Claims Court of the United States. The lawsuit seeks redress for the illegal taking, the abuse of trust and the many breaches of contract that have occurred over the years. Just as the United States resisted reference of the legality of the taking and the testing programme to the International Court of Justice when Krishna Menon proposed it here in 1954, so it is doing all in its power to prohibit the Claims Court from adjudicating the matter now. The United States, which held all of the high cards in its negotiations with the Republic of the Marshall Islands over the terms of the Compact, insisted that there be an espousal provision in the nuclear claims portion of the agreement. If

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held valid - an issue on which the United States also hopes to avoid a court ruling - the espousal provision would remit the Enewetak people to a lawsuit against their own Government. Without going into the matter in more detail, it seems peculiar, to say the least, that the United States is unwilling to have its own courts consider its own record as Administering Authority and to determine whether or not it has lived up to its obligations to the people of Enewetak. What the United States has done, without review by any court and without the consent of its ward, is to agree to pay the people of Enewetak what amounts to about 5 cents in the dollar on the amount in controversy in the Claims Court litigation. Nowhere else that we are aware of could a trustee violate its trust, admit it, decide what damages to pay, and then declare the matter settled and beyond the purview of the court that might otherwise hear the claims of the ward.

At the outset of the petition we argued that the Council should terminate the Trusteeship Agreement because enough is enough. Now that members have heard our reasons for asking for termination, we hope they will grant it. If the Council agrees with us that the United States record as Administering Authority is deficient in the ways we have pointed out, we ask it to so find. And if it agrees with us that, by rights, the United States should not be able to close shop in the Trust Territory unti it has provided for the resettlement of Engebi and the continuation of the Enewetak support programme, we ask that it grant our petition to that effect. Finally, we ask that the Council express dispproval of the United States efforts to deprive the American courts of the opportunity to hear the lawsuit brought by the people of Enewetak to redress the injuries sustained at the hands of the Administering Authority from 1947 to the present. Somewhere, some day, the people of Enewetak are entitled to their day in court on that question.

(Mr. Anderson)

At this point, or at any subsequent point, we will be glad to attempt to answer the Council's questions.

The President (interpretation from French): I call now on the last petitioner to be heard this morning before delegations ask questions, Mr. Glenn Alcalay, who will speak on behalf of the National Committee for Radiation Victims.

Mr. ALCALAY: I appreciate this opportunity to share with the Council once again the views and concerns of the National Committee for Radiation Victims about the current situation in the Trust Territory of the Pacific Islands. The National Committee for Radiation Victims is a non-profit public-interest organization that works on behalf of persons who have been exposed to radiation from nuclear-weapon tests, as well as those exposed through all of the various stages of the nuclear fuel cycle and in the nuclear industry.

This year marks the 39th year of the Trust Territory and as we gaze into the future at what a post-trusteeship world may look like for our friends in Micronesia it seems more imperative than any year previously to scrutinize with great care the way in which the Administering Authority has discharged its obligation under a "sacred trust" to fulfil the pledges made to the international community in 1947. Also, as we approach termination of the last remaining Trusteeship Agreement, we are compelled to examine how the Micronesian people will fare under the proposed Compacts of Free Association. It is our contention that many serious problems remain to be worked out under the proposed Compact arrangement, and it is our hope that this Council, in conjunction with the Security Council, will seriously consider some of these blatant deficiencies. These deficiencies did not simply arise out of a vacuum, but rather have historical roots. For that reason, I feel

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it necessary to recall some of the history concerning the nearly 40-year relationship between Micronesia and the Administering Authority.

After defeating the Japanese through island-hopping and some particularly vicious battles, the United States took possession of the 2,100 islands of Micronesia. In Washington another battle was waged over how the United States would assume control over these strategic specks of land that led like stepping stones from the mid-Pacific to the periphery of the Asian mainland. After all, it was from an aircraft carrier based in Micronesia that Japanese aircraft launched their attack on Pearl Harbor. Similarly, it was from Tinian Island in Micronesia that the Enola Gay made its unprecedented journeys to the doomed cities of Hiroshima and Nagasaki which officially opened the nuclear age.

(Mr. Alcalay)

The State Department, under the direction of Cordell Hull, suggested that the former Japanese mandated islands be supervised under an international trust territory arrangement. Secretary of War Henry Stimson advocated outright annexation of the islands of Micronesia. A Gallup poll of May 1944 indicated that 69 per cent of the American public favoured permanent control over the islands, with only 17 per cent opposing that view. An editorial in The New York Times of 5 April 1945 proclaimed that

"the islands are as important to the United States as the Hawaiian Islands."

The future status of the Micronesian islands was settled on 2 April 1947, when the Security Council approved the creation of the Trust Territory of the Pacific Islands, and on 18 July of that year, when the United States approved the Trusteeship Agreement. It should be noted that the Administering Authority did not wait for legitimate approval by the United Nations or Congress before it unilaterally undertook the first post-war atomic experiments at Bikini. In cavalier fashion, with its nuclear monopoly in its hip pocket, the United States set out in March 1946, the year before it signed the noble-sounding pledge to

"protect [them] against the loss of their lands and resources",

forcibly to remove the 166 Bikini islanders for the upcoming atomic tests in their lagoon.

When Commodore Ben Wyatt arrived on Bikini in February 1946 the Bikini people had no way of knowing that one of the greatest heists of the twentieth century was about to take place. When military planners in Washington had chosen Bikini as an atomic sacrifice area, as early as late 1945, the Bikini people themselves were the very last to learn of the decision to turn their atoll and lagoon into a nuclear battlefield.

(Mr. Alcalay)

When Commodore Wyatt explained to Chief (Ijoij) Juda of Bikini that his atoll was needed by the United States, it was certainly no surprise when the Chief acceded to the request. With no word in the Marshallese lexicon for "enemy", and the Bikinians having the reputation of being some of the gentlest people of the Pacific, Commodore Wyatt shook his head approvingly when Chief Juda proclaimed that he and his people would be happy to go elsewhere for the "benefit to all mankind". Those words would come back to haunt the Chief and his people long after their forced removal.

At around the same time as the Bikinians were about to become the world's first nuclear nomads, an atomic offer was about to be delivered stillborn at the United Nations. Bernard Baruch, a stockmarket millionaire and friend of President Truman, was enlisted to present a plan to the world body for the international sharing of, and co-operation on, nuclear technology. On 14 July 1946 Baruch, speaking in the most sombre tone, told the members of the United Nations that

"We are here to make a choice between the quick and the dead."

Unfortunately, because the so-called Baruch Plan eliminated the possibility of a veto of any of its provisions - a veto, I might add, for which the Soviet Union had fought dearly in the Security Council - and because the Plan was so obviously advantageous to the United States, the Soviets rejected it straight away.

Robert Oppenheimer - the so-called father of the atomic bomb project - refused to be a party to such an unfair proposal, and expressed revulsion when he overheard Baruch tell someone about "preparing the American people for a refusal by Russia". Just as the zero option offered to the Soviet Union by the Reagan Administration concerning the deployment of Euromissiles in 1982 was designed to be repudiated, and just as the current United States negotiating team in Geneva has been instructed by Washington to continue the impasse, the Baruch Plan of 40 years ago was devised to be dead on arrival when offered by the 75-year-old stockmarket mogul.

(Mr. Alcalay)

Halfway around the globe, as if loudly to enunciate the planned diplomatic bomb at the United Nations, Admiral William Blandy herded his joint task force into the recently vacated Bikini lagoon for the first post-war atomic bomb experiments. On 1 July 1946, "Dave's Dream", a B-29 bomber that had flown up from Kwajalein, dropped a 23-kiloton Nagasaki-type plutonium bomb, code-named "Able", atop a target fleet of 90 mothballed Second World War ships in the Bikini lagoon. Most of the international observers who had seen the gruesome images of the destruction in the Japanese A-bombed cities were sorely disappointed by what appeared to be a dud that was dwarfed in the expansive Bikini lagoon. Their disappointment did not last very long.

Three weeks later, on 25 July, "Baker", the world's first underwater atomic bomb, was exploded 100 feet below the water on the floor of Bikini's lagoon. Radiation safety experts from the Atomic Energy Commission, headed by Colonel Stafford Warren, had warned that if the radioactive column of water from "Baker" did not rise above 10,000 feet, radiological conditions would be extremely dangerous. In fact, the "Baker" water column that formed the base of the mushroom cloud rose to only 6,000 feet. Predictably, the lagoon and target ships became engulfed in a dangerously radioactive spray. Because the contamination was so serious, and because it was feared that many of the 42,000 "Operation Crossroads" personnel would be put at high risk of radiation exposure, the third atomic test of Crossroads, "Charlie", was cancelled.

While the Bikini islanders were fending off starvation by having to resort to eating the hearts out of the coconut palms on inhospitable Rongerik Atoll 130 miles away, it was becoming obvious that instead of their living in the promised land mentioned by Commodore Wyatt, their exile on Rongerik was more and more like purgatory.

(Mr. Alcalay)

In Washington the strategic planners within the Joint Chiefs of Staff were assembling the vast storehouse of information obtained from the two atomic blasts at Bikini. In a particulary chilling section of the final report from the Joint Chiefs, titled "The Evaluation of the Atomic Bomb as a Military Weapon", the knowledge gained from the harrowing "Baker" bomb of the previous year was integrated into the formulation of a ghoulish war-fighting scenario by the Pentagon, as follows:

"Test Baker gave evidence that the detonation of a bomb in a body of water contiguous to a city would vastly enhance its radiation effects by the creation of a base surge whose mist, contaminated with fission products, and dispersed by wind over great areas, would not only have an immediately lethal effect, but would establish a long-term hazard through the contamination of structures by the deposition of radioactive particles.

"We can form no adequate mental picture of the multiple disaster which would befall a modern city, blasted by one or more atomic bombs and enveloped in radioactive mists. Of the survivors in contaminated areas, some would be doomed to die of radiation sickness in hours, some in days, and others in years. But these areas, irregular in size and shape, as wind and topography might form them, would have no visible boundaries. No survivor could be certain he was not among the doomed and so, added to every terror of the moment, thousands would be stricken with a fear of death and the uncertainty of the time of its arrival."

It became clear that, rather than benefiting mankind, the atomic experiments at Bikini had little to do with altruism and everything to do with helping to consolidate the United States immediate post-war nuclear monopoly and to set the

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stage for the advancing cold war. Unwittingly - and by a freak accident of geography - the people of Bikini were forced to make the supreme act of sacrifice by forfeiting their sacred and inalienable islands and lagoon for what has come to be a 40-year-long endless cycle of the very costly nuclear-arms race which continues to threaten our very survival on the planet.

(Mr. Alcalay)

The hydrogen - or thermonuclear - era blasted its way into history on 1 November 1952 at Enewetak Atoll. On that day, "Mike", a 10-megaton hydrogen device was set off on Elugelab Island at Enewetak: within seconds Elugelab ceased to exist. Mike marked the first successful explosion of a fusion reaction, but because the contraption was so huge - weighing 65 tons and looking like a small building - it was referred to as a "device" rather than a bomb. The problem for the weapons designers at that time was to reduce the size of the fission device so that it could be delivered as a bomb in an aeroplane.

When the Soviet Union exploded its first hydrogen device in 1953, United States experts believed that it was of a superior design to the 1952 Mike device, and many in the Pentagon feared that the Soviets had indeed produced a deliverable hydrogen bomb. With the sudden impetus of the Soviets breathing down their necks, the United States stepped up its programme to build a hydrogen bomb.

On 1 March 1954 the United States exploded its largest and "dirtiest" hydrogen bomb on a reef at Bikini. Code-named "Bravo", the 15-megaton hydrogen bomb was designed to produce a maximum amount of radioactive fall-out because of its proximity to the earth's surface atop a 100-foot steel tower. With Bravo producing a yield more than 1,200 times the size of the comparatively "tiny" Hiroshima atomic bomb, the United States succeeded in producing a deliverable hydrogen bomb. The plume of highly radioactive fall-out produced by Bravo caused the contamination of numerous inhabited atolls and islands downwind of Bikini, and also ignited the international debate about the dangers associated with fall-out from atmospheric nuclear testing. As the nuclear reactor disaster at Chernobyl in the Ukraine will ubdoubtedly become the symbol for the upcoming debate in the late 1980s about the safety and feasibility of nuclear power, the Bravo hydrogen bomb at Bikini touched off the international furor and subsequent debate about the perils of radioactive fall-out.

(Mr. Alcalay)

About 100 miles downwind of Bikini, the people of Rongelap Atoll had no idea that they were about to make history. When the fall-out from Bravo arrived at Rongelap the islanders were puzzled: having seen pictures of winter scenes, some people thought the gritty ash resembled snow. Likewise, at Utirik Atoll, 300 miles downwind of Bikini, the tiny particles of radioactive fall-out arrived many hours after the Bravo explosion and caused the bright sunny sky to become overcast and grey. The people of Utirik, like the Rongelapese before them, were about to become the world's first victims of radioactive fall-out from a hydrogen bomb.

While in the Marshall Islands several years ago, John Anjain recounted an interesting event that occurred around the time of the 1954 Bravo bomb. As the former magistrate or mayor of Rongelap, John told me the following:

> "I was magistrate on Rongelap in 1954. Before that time while I was in Majuro, a fellow who worked with the Atomic Energy Commission stuck out the tip of his finger - about a half inch or so - and said to me: 'John, your life is just about that long.' When I asked him what he meant, he explained that they were setting off a bomb on Bikini soon. I asked him why they did not move the people of Bikini beforehand, as they had done in 1946 for Operation Crossroads, and he told me that they had not gotten word from Washington to evacuate the people beforehand."

Also caught in the Bravo fall-out was the Japanese fishing trawler, the Lucky Dragon, with 23 fishermen aboard. When the Lucky Dragon returned to its home port of Yaizu, physicians from Tokyo made the obvious diagnosis that the men had been exposed to high levels of fall-out. Mindful of Hiroshima and Nagasaki, the Japanese public became outraged at having been hit once again by American nuclear weapons. Despite a rather tepid statement over "this regrettable accident" by the United States Ambassador to Japan, anti-Americanism spread throughout Japan. Even

(Mr. Alcalay)

today, the name of the radio operator of the Lucky Dragon - Aikichi Kuboyama - is a household word in Japan for the terrors of hydrogen bombs.

In addition to the Japanese and the Marshallese, United States servicemen were also caught in the deadly path of Bravo's fall-out. About 130 miles downwind of Bikini, a contingent of 28 Air Force weathermen were monitoring the winds prior to the Bravo blast at Rongerik. When the weathermen radioed that winds at various altitudes were heading from Bikini to Rongerik in an easterly fashion, the Joint Task Force commander failed to respond. After the fall-out from Bravo caused their radiation instrumentation to go off scale there was a long delay before help arrived, and the men were not evacuated until the second day after Bravo. The men were taken to Kwajalein, where an intensive decontamination programme was undertaken to help remove some of the external fall-out to which they had been exposed. From Kwajalein the men were flown to Honolulu, and then they were sent home to the mainland where they were not heard from for several decades.

In 1983 the Council did in fact hear from one of those former Air Force weathermen from Rongerik. In a written petition submitted to the President of the Trusteeship Council, Mr. Gene Curbow provided important information about the circumstances surrounding the Bravo explosion in 1954. In rather stark contrast to the United States 30-year-long allegation that "accidental wind shifts" were responsible for the fall-out on the inhabited atolls in the Marshalls, Mr. Curbow said the following:

> "Another gross error that has been widely publicized was the matter of wind direction at the time of detonation. In its press releases of 1954, as a means of explaining to the media the cause of the exposure, the Atomic Energy Commission explained all the errors away as 'wind shift'. To my knowledge, at least one week prior to the detonation, the surface winds and at levels above were in the easterly direction at Rongerik Atoll."

(Mr. Alcalay)

Likewise, during an interview with The New York Times, Mr. Curbow - who was a senior weather technician on Rongerik - explained that:

"The wind had been blowing straight at us for days before the test; it was blowing straight at us during the test, and straight at us after it. The wind never shifted."

When asked by The New York Times reporter why it had taken so long to come forward with this vital information, Mr. Curbow explained: "It was a mixture of patriotism and ignorance, I guess."

For the past 30 years the Marshall Islanders exposed to the fall-out from Bravo on Rongelap and Utirik have been monitored by annual health surveys conducted by scientists from Brookhaven National Laboratory under contract with the Department of Energy. It has been widely acknowledged that, aside from the scientific surveys conducted by the United States at Hiroshima and Nagasaki, the data collected from the irradiated Marshallese have proved to be invaluable to the United States. As early as 1958, in its third annual report after Bravo, the United States stated in no uncertain terms that:

"... greater knowledge of [radiation] effects on human beings is badly needed... Even though the radioactive contamination of Rongelap Island is considered perfectly safe for human habitation, the levels of activity are higher than those found in other inhabited locations in the world. The habitation of these people on the island will afford most valuable ecological radiation data on human beings."

More recently, United States scientists reaffirmed their extreme interest in the medical findings among the Marshallese hit by Bravo's fall-out, as follows:

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"Until 1954, the Japanese at Hiroshima and Nagasaki were the only human populations exposed to significant radiation from nuclear detonations... The medical observations of the exposed Marshallese over the past 27 years have resulted in significant findings... The medical findings provide the only knowledge about the effects of radioactive fall-out on human beings from detonation of nuclear devices."

(Mr. Alcalay)

In 1978, under the pressure of a lawsuit 20 years after the cessation of nuclear testing, the Bikini Islanders succeeded in forcing the United States to conduct a radiological survey of the Northern Marshalls. In what turned out to be a revelation, the survey concluded that the radiological contamination of the Marshall Islands was far more extensive than had been previously revealed as a result of the 66 [announced] atomic and hydrogen bomb tests at Bikini and Enewetak between 1946 and 1958. According to the 1978 Department of Energy report, all 14 atolls and islands surveyed had received at least "intermediate fallout".

The Department of Energy report, then, presented a major dilemma: If 14 atolls and islands - many of which are inhabited - were hit with fallout, why is the United States monitoring the health and environment of the people of only two atolls, Rongelap and Utirik? This is an especially important question in light of the fact that many people from atolls in the Northern Marshalls - such as at Likiep, Wotho and Wotje - have been complaining of unusual health problems in recent years, including many reports of thyroid tumors such as have been found at Rongelap and Utirik.

The 1978 Department of Energy report presents another major difficulty: Since the Department of Energy survey of 1978 limited its scope to only 14 atolls in the Northern Marshalls - as per the directive in the Bikini lawsuit - we still do not have any radiological data about the remaining 20 atolls and islands in the Marshalls that were not surveyed. This point is especially crucial in light of the fact that in 1953 a 43-kiloton atomic bomb was detonated at the Nevada Test Site, causing a major stir in the United States. Code-named "Simon", this atomic bomb sent radioactive fallout across the United States, and several days after detonation high levels of fallout were recorded at the Rensselaer Polytechnic

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Institute in Troy, New York, about 2,300 miles from the Nevada Test Site. If fallout could travel 2,300 miles across the United States from a relatively small atomic bomb that was only 1/350th the size of "Bravo", how can we be certain that some or many of the giant thermonuclear bombs, in the megaton range, did not completely cover the entire Marshall Islands - and perhaps even some other parts of Micronesia? For the greatest distance between atolls in the Marshalls is merely 800 miles. Before the Trusteeship is terminated, it would seem both scientifically and morally prudent to determine the full extent of radiological contamination in the Marshall Islands.

In the very startling report issued by the Defense Nuclear Agency in 1982, it is stated that

> "Winds at 20,000 feet were headed for [inhabited] Rongelap to the east. The predicted speed of these winds was low enough to be of no concern, although it was recognized that both Bikini and Eneman Islands would probably be contaminated".

Despite the mild disclaimer in the Defense Nuclear Agency report, it seems rather unconscionable that the Joint Task Force commander for the "Bravo" bomb test would give the go-ahead while there was some indication that islands could be contaminated: quite mysteriously, as a safety precaution the people of Rongelap and Wotho were routinely evacuated to Lae Atoll in preparation for the "tiny" atomic blasts of "Operation Crossroads" at Bikini in 1946. It is beyond belief that despite an alarming weather report, and despite warnings from the Air Force weather unit at Rongerik, the decision was made to proceed with the nuclear experiment - and this with a hydrogen bomb that not only was the largest possessed by the United States, but was in fact placed 100 feet above the ground to produce the maximum amount of radioactive fallout possible.

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Also in the Defense Nuclear Agency report, a map showing the placement of all of the Task Force ships indicates that the USS Gypsy was positioned just off the southern tip of Rongelap at H-hour. Again, it simply defies human understanding that instead of quickly evacuating the people of Rongelap - and the Rongerik airmen nearby - the Gypsy was ordered out of the area and the islanders were left to languish in the lethal fallout from Bravo.

Whether the United States Government actually planned in advance to intentionally use the Marshall Islanders as human guinea pigs in studies of radioactive fallout effects may never be fully disclosed. Rather, that the United States did not take adequate and humane precautions to prevent the possible irradiation of human beings was certainly the order of the day.

In order to examine fully the circumstances surrounding the bizarre events leading to "Bravo", it is important to consider the historical moment. With the Korean war having just ended, the pernicious virus known as McCarthyism was ravaging the society of the United States, and the head of the Atomic Energy Commission - Admiral Lewis Strauss - was loudly boasting about "nuclear energy too cheap to metre". With the French defeat at Dien Bien Phu at that very moment, Secretary of State John Foster Dulles made a secret offer to Prime Minister Bidault of three tactical nuclear weapons to be used against the Indochinese in North Viet Nam. Luckily for the rest of the world, the French Prime Minister had the proper sense to refuse Dulles' offer.

Is it conceivable that a great and mighty nation such as the United States would allow this tragedy to befall innocent and unsuspecting people whom it had pledged to the international community to protect and advance? I direct the council's attention to a rather unbecoming human experiment carried out under the auspices of the the United States Public Health Service. Beginning in 1932, the

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Public Health Service initiated a syphilis experiment with 400 black inmates of a State penitentiary in Macon County, Alabama. This was known as the "Tuskegee Study". The 400 inmates were known to have syphilis, but were not given antibiotics or medication so that they could be compared with 200 "control" inmates who did not have the disease. All of these inmates were carefully monitored for more than 30 years to see if there were differences in mortality and morbidity between the "experimental" and the "control" groups, and in fact the group of diseased men died at a much earlier age than did their peers.

My reason for mentioning the infamous Tuskegee Study in the same context as the continuing enigma surrounding "Bravo" is this: Is it not conceivable that the same Government that would conduct such a gross and inhumane experiment as the syphilis study in Alabama with black inmates would also carry out a human experiment in the vast and remote reaches of the Pacific for the purpose of gathering vital fallout data in the nascent era of the thermonuclear age? Until the final verdict is in, we are left only to surmise.

On 25 September 1961 President Kennedy addressed the United Nations General Assembly and gave a glowing and beneficent statement of support for the vast, historic changes that were transforming the world in the post-war era. Speaking about the issue of colonialism before the world body, Kennedy said,

> "Within the limits of our responsibility in such matters, my country intends to be a participant, and not merely an observer, in the peaceful, expeditious movement of nations from the status of colonies to the partnership of equals". (A/PV.1013, para. 16)

Notwithstanding the fine rhetoric before the world body, Kennedy had another vision for the United States colony of Micronesia.

(Mr. Alcalay)

On 18 April 1962, merely seven months after his anti-colonial speech at the United Nations, Kennedy signed National Security Action Memorandum 145, which set forth as United States policy "the movement of Micronesia into a permanent relationship with the United States within our political framework". So much for the alleged goal of helping the Micronesian people advance toward self-government and eventual independence, as the realpolitik of United States strategic self-interest became codified in National Security Action Memorandum 145.

(Mr. Alcalay)

To help implement NSAM 145, the President appointed his friend the Harvard economist Anthony Solomon to conduct a fact-finding tour of the Trust Territory and make recommendations for the implementation of the policy contained in NSAM 145. In the so-called Solomon report - most of which is still classified - it was suggested that increased financial assistance be transferred to the islands for the explicit purpose of achieving a favourable outcome in the upcoming plebiscites to determine the future status of the Micronesians. In stark language, the Solomon report comprised an "integrated master plan which would win the plebiscite[s] and make Micronesia a United States territory". In a very salient passage that stands as a model for imposing economic dependency on another nation, it was advised that the annual congressional allotment for Micronesia be considerably increased, with the caveat that

> "those programs and the spending involved will not set off a self-sustaining development process of any significance in the area."

So much for promoting the economic advancement and self-sufficiency of the inhabitants, as promised in the Trusteeship Agreement. The Solomon report even called for increased Peace Corps participation in Micronesia because "it is of critical importance to... the plebiscite attitudes". Little did I realize when I was a Peace Corps volunteer on Utirik Atoll in the Marshall Islands in the mid-1970s that I was being used to help promulgate a "master plan" for the eventual absorption of Micronesia into the United States sphere of influence.

Is it any wonder then that

> "of all revenue available to the Trust Territory governments, over 90 per cent is derived from the United States Treasury"?

As Lieutenant Governor Francisco Ada of Saipan told a New York Times reporter a few years ago,

(Mr. Alcalay)

"There was far more economic activity on Saipan under Japanese rule from the end of World War I to the end of World War II."

In his stinging critique of how the United States has handled its Trust Territory, former United States representative to the United Nations Donald McHenry displayed unusual candour when he wrote that

"What has actually motivated the United States in Micronesia has been an assumption that Micronesia was 'ours' and would always be 'ours' - though its status might suffer a nominal change."

The "nominal change" in status to which McHenry was referring is currently known as the Compact of Free Association.

Turning to the Compact, it appears that several serious deficiencies continue to plague this misbegotten attempt to terminate the trusteeship. At this very moment another protest is taking place by the Kwajalein landowners who are not happy with the current situation with the United States military at the missile range. According to a recent interview in the Marshall Islands Journal of 18 April, Julian Riklon, who is supposed to appear before the Council later this week, expressed enthusiasm about the possibility of eventually closing down the entire missile facility and having the island returned to its owners. However, Riklon

"claims to have a realistic enough eye on the situation to appreciate the improbability of such an eventuality".

So much for national sovereignty.

This same sense of disappointment was echoed in a recent letter to President Nakayama of the Federated States of Micronesia from Pohnpei Governor Resio Moses and Speaker of the Pohnpeian Legislature Salter Etse. Speaking about the congressional review process on the Compact, the authors of the letter complained that

(Mr. Alcalay)

"It is most disappointing that after 40 years of administration the chief lawmakers of the United States apparently are unable to grasp the most fundamental aspects of the United Nations Trusteeship System and the goals and aspirations of the peoples who came under the protection of this international Organization.

"In accepting the Compact... we are not merely committing ourselves to 15 years of partnership with the United States. The Compact grants to the United States the right of military dominance over our lands and seas for an indeterminate number of years - and that could be a very long time."

In a recent Washington Post article, James Berg of the Office of Micronesian Status Negotiations proclaimed triumphantly about the 21 February Palauan plebiscite,

"To the degree one looks at the next forward area for naval and air installations, we have completed the arc."

But instead of completing the arc, the most recent, the sixth, vote in Palau raises fundamental constitutional questions that are still unclear. According to an analysis conducted by the Congressional Research Service entitled "Section 324 of the proposed Compact of Free Association with Palau as a possible violation of the Constitution of Palau", the Service concludes by stating that "the Palauan Government has no power to waive a constitutional right". This is a reference to the nuclear-free Palauan Constitution and the confusion which persists over that perplexing issue. By having to vote six times on issues relating to their Constitution, the Palauan people have been worn down by United States intransigence and its obvious desire to keep all military options open in a strategic part of the Western Pacific Ocean.

In conclusion, several recommendations are suggested to the Trusteeship Council.

(Mr. Alcalay)

First, because we still do not have a complete and objective - that is, non-governmental and independent - understanding of the extent of radiological damage in the Marshall Islands, the so-called espousal clause in section 177 of the Compact, which calls for the elimination of present and future legal claims against the United States, should be removed in order to protect the radiation-affected Marshall Islanders in the years ahead. It should be noted that in its final draft of the Compact even the Marshall Islands Nitijela - that is, Parliament - deleted the espousal clause from the Compact.

Secondly, the Trusteeship Council should request of the United States Congress that funds for an independent Rongelap radiological survey be released as soon as possible. Having evacuated their home atoll for a new and temporary home at Mejatto Island in Kwajalein, the Rongelap people are in serious and immediate need of an independent radiological survey to determine whether they may return home or must remain at Mejatto.

Thirdly, instead of the 15-year land use agreement with the people of Kwajalein, along with a 15-year extension and another extension after that, the United States should enter into a status of forces agreement which lasts for a five-year period and is renewable every five years. This is the same kind of agreement as the United States maintains in other countries where it leases land for military purposes.

Fourthly, Bikini and Enewetak should be given by the United States Government the highest priority for rehabilitation and rehabitation so that we can end the 40-year nuclear nomad nightmare for these very unfortunate people, many of whom are sitting in the Chamber today.

(Mr. Alcalay)

Fifthly, I strongly urge the Council to draft and ratify a resolution similar to United Nations resolution 1514 (XV) concerning the continued oversight of the Cook Islands and Niue by the United Nations. Because the Compact will end all United Nations oversight of the island nations of Micronesia, it seems crucial for the United Nations to maintain oversight status for the duration of the Compact agreements. This oversight will in no way interfere with the self-governing of the respective Micronesian nations, but will instead ensure a forum at the international level for prospective disputes and/or clarifications of the Compact.

In closing, I wish to recount a telling comment by Ms. Ezra Leban of Utirik a few years before her death, in 1984, from cancer. Speaking about the United States administration, Ezra said: "The United States came to our islands and threw bombs on us, and now we are slowly dying." Let us hope the future will bring more promise than the past.

The PRESIDENT (interpretation from French): I note that Mr. Butler will be unable to be present at our meetings tommorrow. This is regrettable, for his statement raises important issues and I doubt that in the 10 or 15 minutes remaining to us delegations will be able to question him as thoroughly as they might have wished. I note, however, that, at my request and with my assent, Mr. Butler will be represented tomorrow by Ms. Roff, a signatory of the petition of the Minority Rights Group.

Does any member wish to put questions to the petitioners?

Mr. ROCHER (France) (interpretation from French): As Mr. Butler will not be with us later, I wish to put a question to him, although my delegation, of course, reserves the right to question representatives of the Administering Authority and of Palau on their views regarding the question I am about to ask Mr. Butler, specifically on the conduct of the plebiscite and on the questions of constitutionality which have been raised.

Mr. Butler has told us that the question of the Compact's compliance with the Palauan Constitution is to be raised in the Palauan courts. This is the first that my delegation, and I believe the Council, has heard that there are to be legal proceedings with respect to the February 1986 plebiscite. The matter appears to call into question the constitutionality of the choice of the people of Palau. Does Mr. Butler's organization intend itself to take legal action? If not, who will take such action in its stead?

Mr. BUTLER: It is my understanding that a delegation from Belau is to arrive here today or tomorrow and that arrangements are being made with Belauan lawyers supported by non-Palauan lawyers to raise the issue of the legality of the Compact of Free Association vis-à-vis the constitutional provisions in the Belauan courts in the near future. I cannot tell the Council the exact time, date or place, but this is under consideration and I understand that a decision will be made to go forward in the very near future.

Mr. ROCHER (France) (interpretation from French): I would ask the petitioner to reply to my first question: does his organization intend to take such action, or am I right in thinking that it cannot do so because it is not a Palauan organization?

Mr. BUTLER: As a New York lawyer of 35 years, I hesitate to practise Palauan law before the Trusteeship Council of the United Nations, but my understanding is that the petitioners will be citizens of Belau, that they will be represented by Belauan counsel aided and helped by lawyers interested in this issue from other parts of the world, and that the case will be brought in a Belauan court.

Mr. KUTOVOY (Union of Soviet Socialist Republics) (interpretation from Russian): The Soviet delegation expresses its gratitude to the petitioners for their objective and unbiased exposition of the real situation in the Trust Territory. We feel that in their statements these honest people showed genuine, unfeigned concern for the fate of the Micronesian people and for the future of the Trust Territory of Micronesia in keeping with the true interests of the people of Micronesia, not with the military, strategic and political plans of the Administering Authority.

The petitioners have shown great civic courage and have displayed a genuine concern for the rights and freedoms of the people of Micronesia; for this they deserve great respect, and we commend them for their devotion to this noble cause.

Today we have heard the truth about Micronesia, without any of the propaganda window-dressing with which the representatives of the Administering Authority attempted yesterday to disguise the facts. This afternoon, the Soviet delegation will ask questions concerning the important points made today in the petitioners' statements.

Mr. MORTIMER (United Kingdom): The hour is late. I have so many questions to ask the petitioners I think I could keep them here all afternoon, particularly Mr. Butler. I therefore join with the President in expressing regret that he will not be here tomorrow, although I hope that we shall be able to address our questions to Ms. Roff.

The essence of Mr. Butler's petition, as I understand it, was that in the plebiscite the Compact of Free Association in Palau was not approved because it failed to get a 75 per cent majority. I would like Mr. Butler to explain as briefly as possible why he thinks a 75 per cent vote was necessary. I am not a lawyer, and perhaps that is a cross I simply have to bear in this Council, but it seems to me at least that a casual reading of the Palau Constitution and the Compact of Free Association shows that what is proposed under the Compact in section 324 is entirely consistent with what is contained in the Palau Constitution - I believe the relevant sections are 3 (2) and 13 (6) of the Palau Constitution - and indeed section 324 was drafted specifically so as to coincide completely with the wording of the Palau Constitution on those two points.

I wonder whether Mr. Butler could give us his opinion on that.

Mr. BUTLER: The representative of the United Kingdom is, of course, raising the issue that will be submitted to the Belauan court, that is, specifically whether or not section 324 of the Compact of Free Association complies with the constitutional prohibitions of the Palauan Constitution. It is our fundamental position that section 324 is inconsistent with the requirements of the Belauan Constitution, in so far as it forbids nuclear materials to be situated in the Belauan archipelago.

(Mr. Butler)

From a reading of article 2 (3) and article 13 (6) together, it would seem that if section 324 of the Compact does in fact provide for any of the prescribed activities, then the entire Compact requires a three-fourths approval, or at the very least that there be a special question thereon in the referendum that must be approved by a three-fourths vote.

(Mr. Butler)

I said in my remarks this morning that it was very questionable, in my opinion, whether the Constitution could be changed except through the methods provided in the Constitution itself, which specifically states that a change in this particular constitutional provision requires the votes of three fourths of the people voting in a referendum submitted to them on that issue only.

This is not the case here. This issue has been submitted to the people of Palau through a Compact of Free Association. That is not a referendum submitted on the issue of the amendment to the Constitution. We are convinced that if the Belauan people were to have that question submitted to them in its pure form - "Do you or do you not want nuclear materials to be situated in Belau?" - they would turn it down. That is exactly why the administering Power tries to slip this issue in through a Compact of Free Association, because it knows that the people of Belau want a Compact of Free Association. So it tries to sneak in the issue of a nuclear presence on the island by inserting it in a provision of the Compact of Free Association that is inconsistent with the Belauan Constitution.

That is the very point here, and that is the point that is going to require judicial inquiry. It is our opinion that they cannot have it both ways. Either they amend the Constitution or they do not amend the Constitution. If the Compact contains provisions that are inconsistent with the Constitution, then the Compact fails. That was the basis of the 1983 decision and I think it would be the same in another case brought before the Belauan courts after the appellate procedures in Belau are exhausted - or maybe even in a court in the United States, since there is a big question as to whether or not the Federal courts of the United States might have jurisdiction to inquire into this issue as well prior to the time Belau becomes a nation in its own right. Those are the issues that are presented here.

(Mr. Butler)

It is pretty clear to some of us that this kind of tricky attempt to overrule the Constitution indirectly through the Compact of Free Association is not sound legally and will not sustain judicial inquiry.

Mr. MORTIMER (United Kingdom): I really am the least qualified here, I imagine, to enter into a legal tussle with New York attorneys on matters of Palau law, but it seems to me that the point to make about section 324 is surely that it was included in the Compact of Free Association precisely because it was not suggesting that anything it contained was contrary to the Palau Constitution, and for that reason the 75 per cent majority was not required. I do not wish to put words into the mouths of my Palauan colleagues, but presumably it was on that basis that the President certified the result.

Mr. BUTLER: Sound principles of international and constitutional law state very clearly that the constitutional will of a people set forth in a constitution arrived at through duly elected people attending a constitutional convention cannot be altered by the President of that country or by the legislature of that country or by any official - those words are written in stone and cannot be changed except by submission to the will of the people.

The meeting rose at 1.05 p.m.