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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Summary record of the 9th meeting

Held at Headquarters, New York, on Friday, 27 June 2014, at 10 a.m.

Chair: Mr. Lasso Mendoza (Ecuador)
later: Mr. Koroma (Vice-Chair) (Sierra Leone)
later: Mr. Lasso Mendoza (Chair). (Ecuador)

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The meeting was called to order at 10.30 a.m.

Adoption of the agenda

1. *The agenda was adopted.*

Question of Tokelau (continued) (A/AC.109/2014/2; A/AC.109/2014/L.15)

Draft resolution A/AC.109/2014/L.15: Question of Tokelau

2. **The Chair** recalled that, at its 6th meeting, held on 24 June 2014, the Committee had agreed to defer action on draft resolution A/AC.109/2014/L.15, submitted by Fiji and Papua New Guinea, in order to allow adequate time for consultations to be concluded. Those consultations had resulted in the consensus text before the Committee.

3. *Draft resolution A/AC.109/2014/L.15 was adopted.*

Question of New Caledonia (A/AC.109/2014/16 and A/AC.109/2014/16/Add.1; A/AC.109/2014/L.12)

Report of the visiting mission to New Caledonia (A/AC.109/2014/20/Rev.1)

4. **Mr. Koroma** (Sierra Leone) introduced the report of the Committee's visiting mission to New Caledonia (A/AC.109/2014/20/Rev.1).

5. **Mr. Aisi** (Papua New Guinea), referring to paragraph 110 of the report, said that, while a great deal of headway had been made, New Caledonia's political future was still a work in progress and required the Committee's attention. As the Nouméa Accord would expire in 2019, the Committee should ascertain what other matters needed to be addressed to ensure that any transition would be smooth and effective.

6. **Mr. Hermida Castillo** (Nicaragua) said that he remained concerned at the lack of a unified interpretation of relevant provisions setting out the conditions for inclusion in the special electoral roll, particularly as the Nouméa Accord provided for the holding of a referendum between 2014 and 2018. That did not leave much time to reach agreement on an issue that had remained unresolved for 16 years. Equally troubling was the fact that the 1998 electoral roll had not been made available to the special administrative commissions until 2014, and that the visiting mission had been unable to secure information about efforts to

enhance inclusiveness and voter registration. Those concerns, coupled with the fragile sociopolitical situation in the Territory, required the Committee to work actively to resolve the problems surrounding the electoral rolls.

Hearing of petitioners

7. **The Chair** drew attention to the additional requests for hearing contained in aide-memoire 06/14/Add.1 relating to the question of New Caledonia. He took it that the Committee wished to accede to those additional requests.

8. *It was so decided.*

9. **The Chair** said that, in line with Committee's usual practice, petitioners would be invited to take places at the petitioners' table and would withdraw after making their statements.

10. **Mr. Yanno** (Union pour la Calédonie dans la France) said that during the recent provincial elections, held on 11 May 2014, the citizens of New Caledonia had freely and democratically elected representatives to the three provincial assemblies and the Congress of New Caledonia, confirming the anti-independence majority in the Congress. Comprised of three political groupings, namely Calédonie Ensemble, Front pour l'unité and his own party, that majority did not want independence and aimed to keep an emancipated New Caledonia within the French Republic. Unlike the representatives of the pro-independence Front de libération nationale kanak socialiste (FLNKS), who had regularly appeared before the Committee as petitioners, the anti-independence groups had never before addressed the Committee; however, as part of the new anti-independence unity governance compact, those groups had decided to make their voices heard at the United Nations.

11. The historic, exemplary, difficult and fragile peace and emancipation process, which was supported by the vast majority of both pro- and anti-independence New Caledonians and had been facilitated by France for the last 26 years, would enter a new phase by 2018. While there were still significant differences of opinion about New Caledonia's political future, there was a growing desire among the population to forge a common destiny. However, more time and effort were needed to train future leaders, redress imbalances between the provinces, and foster a change of attitude before a true common destiny could

emerge. Unfortunately, certain elements within the pro-independence movement viewed the democratic process as an obstacle to self-determination, and some anti-independence groups considered themselves the victims of discrimination, particularly with regard to voting, employment and cultural rights, which were heavily weighted in favour of the Kanaks.

12. While their supporters were a minority of the population, pro-independence groups benefited from the system of proportional representation and the Territory's geopolitical divisions. They had five representatives in the new Government, including the position of Vice-President. Notwithstanding that systemic bias, recent election results indicated that more than 60 per cent of the population of New Caledonia would vote against independence in the event of a referendum. The definition of the electorate was therefore still the most sensitive and contentious issue. In a spirit of compromise, the anti-independence groups had agreed to renounce the republican principle of "one person, one vote" for the votes on self-determination under the Matignon Accords, and had accepted the ethnicity and residency requirements of the Nouméa Accord. Unfortunately, the delicate balance of interests represented by those agreements had been upset by the decision to freeze the electorate, to the detriment of residents who had arrived in New Caledonia after November 1998. In recent years some pro-independence parties had sought the removal, through legal challenges, of non-Kanak or anti-independence voters from the rolls, although such challenges had rarely been successful.

13. Having governed New Caledonia together for nearly 30 years, both sides owed it to the population to maintain peaceful economic development and social progress after the referendum to be held by 2018. The anti-independence parties had therefore recently agreed to initiate a dialogue with the pro-independence parties and the State in order to prepare for that referendum. The three options for self-government set out in General Assembly resolution 1541 (XV), namely independence, free association or integration, were not acceptable to the anti-independence parties, which believed that emancipation and decolonization were not necessarily synonymous with independence. They wished to achieve decolonization under the fourth option provided in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the

Charter of the United Nations, namely "any other political status freely determined by a people".

14. **Mr. Wamytan** (Front de libération nationale kanak socialiste (FLNKS)) said that his party had repeatedly raised the delicate issue of the special electoral roll with the administering Power and the other signatories of the Nouméa Accord, as there were reports that the roll included the names of individuals who did not meet the relevant criteria. While those cases had initially been regarded as anomalies, they could now be considered to be organized electoral fraud, in contravention of a basic tenet of the Nouméa Accord.

15. Having made the Kanak a minority in their own country, the administering Power and the anti-independence parties continued to use that fact to deny their legitimate demand for independence and to protect France's interests. The failure to apply the criteria for inclusion on the electoral rolls proved that the electoral system was being used as a weapon against the colonized people, preventing them from exercising their right to self-determination. The mechanisms established to control and review the special electoral roll seemed to have been made deliberately complex and onerous, and attempts to enforce the special electoral roll criteria through the courts had been unsuccessful. The court verdicts had been handed down particularly quickly, probably in an attempt to influence the outcome of the report of the Committee's visiting mission.

16. It was therefore unthinkable and unacceptable that the same electoral system should be used to organize a referendum on sovereignty. He urged the Committee to ensure that the referendum was carried out in accordance with the principles regarding the right to self-determination and that it offered the different options given under principle VI of General Assembly resolution 1541 (XV).

17. **Mr. Forrest** (Front de libération nationale kanak socialiste (FLNKS)) said that the Committee's visiting mission to New Caledonia in March 2014 had allowed it to verify the truth of the claims made by FLNKS over the years that the timetable and letter of the Nouméa Accord had not been respected. The delays in the transfer of powers, the administering Power's hesitation to devolve ownership of Société Le Nickel, and the lack of will to provide training in the military, judicial, security and diplomatic fields raised doubts

and questions about the administering Power's willingness to respect its commitments to allow the Kanak and New Caledonian population to freely determine the future of the country.

18. The fundamental political reforms to be implemented by 2019, including tax reform in order to redistribute wealth and stop capital flight, had created friction between industry and the authorities, which must not be allowed to endanger the peace process. For 26 years, within the framework of the Matignon and Nouméa Accords, FLNKS had demonstrated its ability to govern the Territory, with a view to achieving the political objective of full sovereignty, a goal that was supported by the Melanesian Spearhead Group and the Movement of Non-Aligned Countries.

19. **Ms. Le Fraper du Hellen** (France) said that her country had provided the United Nations with regular updates about the Territory and had collaborated with the Committee for many years. The visiting mission to New Caledonia and Paris in March 2014 had proved once again her Government's willingness to engage in an open dialogue and its exemplary participation in the process in New Caledonia. The visiting mission had been unanimously hailed as a success, allowing the members of the Committee to see the situation in New Caledonia for themselves, including the preparations for the provincial elections and the progress made under the final phase of the process outlined under the Nouméa Accord.

20. New Caledonian society was now entering a critical phase of intense reflection on its future, for which dialogue was of key importance. It was therefore vital to ensure that discussions took place in an atmosphere of trust. As a stakeholder in and guarantor of the smooth implementation of the Nouméa Accord, her country sought to facilitate the dialogue between the different groups. However, it could not and should not speak for them. The presence of petitioners from both sides proved that dialogue existed within the Territory's institutions as well as the wider society. Her country would continue to pay close attention to those exchanges and to the decisions of the people of New Caledonia about their common future.

21. **Ms. Tourte-Trolue** (Office of the French High Commissioner in New Caledonia) said that the French Government had begun the progressive and irreversible transfer of powers to New Caledonia, and was committed to supporting the economic and social

development of the Territory and its people, the redressing of imbalances and the promotion of Kanaks to decision-making posts. The French State was still responsible for organizing elections; however, the questions surrounding the special electoral rolls were now before the relevant judicial authorities. The provincial elections had proceeded smoothly and the newly elected representatives should now focus on the final phase of the Nouméa Accord and the many areas of public policy that required attention.

22. Over the years a true partnership had been created between the State and local authorities. France had supported efforts to redress economic and social imbalances in the North and Loyalty Islands provinces, and had also provided financial and technical support to implement legislation on various issues, including social housing for low-income families. Considerable resources had also been made available to projects such as the "Cadres for the future" programme and adapted military service.

23. While much remained to be done with regard to capacity-building to ensure the smooth transfer of powers, including sovereign powers, to New Caledonia, steps had been taken to facilitate the entrance of students from New Caledonia into leading French universities. The transfer of many of the powers provided for under the Nouméa Accord had been completed and the expenses incurred as a result had been reimbursed by the State. Other powers would be transferred at the request of the Congress of New Caledonia.

Draft resolution A/AC.109/2014/L.12: Question of New Caledonia

24. **Mr. Aisi** (Papua New Guinea), thanking the Government and people of Fiji for hosting the Pacific regional seminar and introducing the draft resolution on behalf of his country and Fiji, said that the text addressed the main issues raised under the question of New Caledonia, including the views of the administering Power, in an objective, fair and balanced manner.

25. *Draft resolution A/AC.109/2014/L.12 was adopted.*

Question of French Polynesia (A/AC.109/2014/19;
A/AC.109/2014/L.16)

Hearing of petitioners

26. **The Chair** drew attention to the working paper prepared by the Secretariat (A/AC.109/2014/19) and to the additional request for hearing contained in aide-memoire 05/14/Add.1 relating to the question of French Polynesia. He took it that the Committee wished to accede to that additional request.

27. *It was so decided.*

28. **The Chair** said that, in line with Committee's usual practice, petitioners would be invited to take places at the petitioners' table and would withdraw after making their statements.

29. **Mr. Tuheiaiva** (Union pour la démocratie) said that it was regrettable that the administering Power had failed to transmit information on French Polynesia to the Committee, as it was required to do under Article 73 *e* of the Charter of the United Nations. During the Pacific regional seminar held in Fiji in May 2014, the representative of the administering Power had left the room when the question of French Polynesia had been discussed.

30. The administering Power exercised unilateral control over the entire electoral system in French Polynesia, including the authority to write and amend electoral ordinances, to determine voter eligibility, and to confirm or annul election results. Constituency boundaries were drawn to favour specific political interests. A number of governance issues had arisen since 2008, when the administering Power had unilaterally imposed the Local Authorities General Code on the communes of French Polynesia, whereas the original intent of the Code had been to establish a modern governance framework for local authorities in metropolitan France. A system of "bonus seats" in the French Polynesian legislature had been created to award additional seats to political parties that favoured the Territory's continued dependent status, and French police and military personnel had been included in the electoral rolls of French Polynesia. The administering Power continued to control immigration to the Territory and was openly encouraging French migration, thus further diluting the electorate and ensuring that there could be no democratic vote in favour of decolonization. Moreover, the resources available for electoral campaigns were unevenly distributed,

including access to electronic media and the availability of marine and air transport to the many outlying islands.

31. The colonial status quo in French Polynesia was inconsistent with a fair and genuine process of self-determination. Steps should therefore be taken to transfer powers to the people of French Polynesia, in accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples.

32. **Mr. Koroma** (Sierra Leone), *Vice-Chair*, took the Chair.

33. **Mr. Temaru** (Union pour la démocratie) said that a series of commemorative events had been held throughout the Territory on 17 May 2014 to mark the one-year anniversary of the reinstatement of French Polynesia on the list of Non-Self-Governing Territories. A permanent memorial had also been unveiled, symbolizing the Ma'ohi people's struggle to overcome colonialism. That struggle was supported by the international community, in particular the Pacific island countries and the Movement of Non-Aligned Countries.

34. The adoption of the draft resolution on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (A/AC.109/2014/L.9), which mirrored the language of other United Nations resolutions and legal opinions regarding the inalienable rights of the peoples of the Non-Self-Governing Territories to their natural resources, was of particular importance to the Ma'ohi people, as their marine resources covered some 5 million km² of seabed and contained vast amounts of minerals. As a Non-Self-Governing Territory, French Polynesia was not a member of the International Seabed Authority. The Territory's right to ownership and control over those resources should be recognized and enforced as part of the self-determination process, particularly as the administering Power had unilaterally limited the Territory's rights in that regard.

35. He looked forward to the report that the General Assembly had requested, in its resolution 68/93, on the environmental, ecological, health and other impacts of the 30-year period of nuclear testing in the Territory. He trusted that the delay in the report's issuance was due to the need for more time to prepare a credible analysis, rather than attempts to hinder its completion. In the meantime, he drew attention to a recent independent report on French nuclear testing in French Polynesia, which would be submitted to the General Assembly.

Noting that the draft resolution on the question of French Polynesia referred to General Assembly resolution 68/73 on the effects of atomic radiation, he hoped that the United Nations Scientific Committee on the Effects of Atomic Radiation would consider including French Polynesia in its programme of work, particularly as the Mururoa and Fangataufa atolls were still considered French military property, making it difficult to conduct truly independent surveys.

36. *Mr. Lasso Mendoza (Ecuador) resumed the Chair.*

37. **Ms. Joseph** (Saint Lucia) asked how the different competencies were distributed between French Polynesia and the administering Power.

38. **Mr. Tuheiava** (Union pour la démocratie) said that an organic law adopted by the French Government set out which competencies were to be exercised by the administering Power and which were in the hands of local or communal authorities. Since 2004, all sovereign powers and those relating to colonial interests, such as currency, the military, security, immigration, justice and the exploitation of strategic mineral resources, were exercised by the administering Power. The remaining competencies were, by default, the responsibility of local or communal elected authorities.

39. **Mr. Koroma** (Sierra Leone) said that the Committee should take advantage of its good relations with the Permanent Mission of France to raise the issues referred to by the petitioners from French Polynesia.

Draft resolution A/AC.109/2014/L.16: Question of French Polynesia

40. **The Chair** introduced draft resolution A/AC.109/2014/L.16.

41. **Ms. Joseph** (Saint Lucia) said that the fifth preambular paragraph should be corrected to refer to the seventeenth Ministerial Conference of the Non-Aligned Movement.

42. *Draft resolution A/AC.109/2014/L.16, as orally amended, was adopted.*

Report of the Pacific regional seminar (A/AC.109/2014/CRP.1)

43. **The Chair** drew attention to a conference room paper containing the report of the Pacific regional seminar held in Denarau, Nadi, Fiji, from 21 to 23 May

2014 (A/AC.109/2014/CRP.1), a copy of which had been circulated in advance of the meeting. He took it that the Committee wished to adopt the report and annex it to its report to the sixty-ninth session of the General Assembly.

44. *It was so decided.*

Report of the Special Committee on decisions concerning organizational matters (A/AC.109/2014/L.14)

45. **The Chair** drew attention to the report, which followed essentially the same pattern as the reports of previous years, with minor technical updates. He took it that the Committee wished to adopt the report.

46. *It was so decided.*

Organization of work

47. The Chair suggested that, in order to facilitate the timely submission of the Committee's report to the sixty-ninth session of the General Assembly, and in accordance with established practice, the Committee should authorize the Rapporteur to submit the report directly to the Assembly.

48. *It was so decided.*

Closure of the session

49. **The Chair** reviewed the work carried out by the Committee in 2014, including the expansion of the Bureau to include Indonesia, the visiting mission to New Caledonia, and the Pacific regional seminar. Following its consideration of the draft resolutions adopted by the Committee, the General Assembly was expected to recommend that the Secretary-General should meet at least once a year with the Bureau of the Committee, or possibly the whole membership, in order to discuss innovative ways in which the Secretary-General could use his good offices to promote decolonization on a case-by-case basis. In addition, the Bureau would continue to hold consultations with the administering Powers, other States and interested parties in order to produce concrete proposals to eradicate colonialism. After the customary expression of thanks to the Committee members and Secretariat staff, he declared the session closed.

The meeting rose at 1.20 p.m.