Submission to joint committee on the National Capital and External Territories.

Inquiry into
Current and future governance arrangements for the Indian Ocean Territories.

By John G Clunies-Ross

The issues raised by this inquiry, and also many apparent difficulties in government functions are symptoms of systemic problem in the governance of the external territories. It is almost impossible to separate the threads of this inquiry, I will try to address the points raised, but it might not be in the most direct manner. My viewpoint will be mainly from the Cocos Islander's angle, though much of it will be pertinent to Christmas Island.

Australia took on the administration of both Christmas and Cocos Islands under differing circumstances. This is mainly a matter of international circumstance, and reflects international differences of administration, not the many issues in common. The most pivotal difference is that Cocos Island was declared a chapter XI territory under the UN charter prior to it being handed over to Australia by UK. Christmas Island has never had this recognition. Australia has resisted any moves in the direction of declaring Christmas Island a chapter XI territory, though it plainly meets all criteria. UK declared Cocos to be chapter XI territory prior to it being handed over to Australia. UK was the most prolific declarer of chapter XI territories, and remains to this day the largest administrator of such territories. Many states that had non-self governing Territories did not declare them. Australia did not declare Christmas Island for political reasons. There are many areas Internationally that should have been declared chapter XI territories, but due to low political principals and conflicting self-interest, have remained undeclared. So just because it has not been declared does not mean it ain't so. Both the International Court of Justice and the Inter-American Commission on Human Rights of the Organization of American States have ruled on cases in a way that supports the view that the principle of self-determination also has the legal status of erga omnes.(7) The term "erga omnes" means "flowing to all." It is a default "flowing to" the Christmas Island community, as it is remote, non-self governing, has unique cultural differences, all prerequisites for declaration as chapter XI territory.

Australia, after much hand wringing followed part 1 of the covenant of Economic, Social and Cultural rights, allowing the UN to visit Cocos. For clarity I reproduce it here:

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

It was growing opinion in expressed and quoted in senate papers, that self determination had risen from a "pious hope, devoid of legal substance" to an International Legal right. The UN 1960 declaration of independence to colonial countries and people and the following 1966 covenant on human rights, underlined that self determination was now a right. Under this advice and growing international opinion, Australia allowed a plebicite for Cocos Islanders. This was monitored by the UN. UN representatives declared that it was fair and reasonable indication of Cocos Islander's wishes. The Commonwealth had lobbied hard for Cocos Islanders to vote for integration, promising new housing, and appointing a full time PR officer. The result was almost unanimous, the Islanders Voted for integration. There were some minor faults in the process, the first being the offer of new housing if Integration option was successful, the second was the limitation of the process to integration or free association with Australia. No other states were allowed to be an option, though this is clearly within the rights of the territory.

Since the time of the Cocos plebicite the committee of 24 has seen that education is pivotal to the self determination process, and has identified this as an issue in the "nascent" pacific island states. With hindsight it was also a major issue in our plebicite. Current thinking on decolonisation is evolving, and reflects changing world political climate and rising education. More weight is being put on the aspirations of the residents. 1990 was the decade of decolonisation, but there remained many non-self governing territories, so the committee of 24 declared 2000 the second decade of decolonisation, calling for a meeting of representative governments and citizens in CANOUAN

ISLAND, within Saint Vincent and the Grenadines. The meeting was to "TO IDENTIFY STEPS NEEDED TO ADVANCE DECOLONIZATION PROCESS". The UN appear to want to increase the speed and spread of decolonisation.

Comments from this meeting:
CHAIRMAN OF THE SPECIAL COMMITTEE.
He said the Millennium Declaration and the two International Decades had been preceded by a long legislative authority for the realization of decolonization -- a series of resolutions adopted by the United Nations General Assembly and Economic and Social Council. Significant mandates were contained in various human rights conventions, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of Racial Discrimination.

Arising from that extensive mandate, he said, was the consistent reaffirmation by all United Nations Member States to develop political education programmes in the Non-Self-Governing Territories on the options of political equality, to provide assistance to the Territories from United Nations agencies, to conduct visiting missions, to make operational the human rights dimension of self-determination, and to promote the repatriation of natural resources to the Territories. The Special Committee was aware of the General Assembly's annual reaffirmation for a transfer of powers to the peoples of the Non-Self-Governing Territories, consistent with sustained requests for such devolution of power resonating in many of those Territories. Forward-thinking recommendations had been advanced by their peoples, including for the enhancement of the role of such United Nations bodies as the Electoral Assistance Division, the United Nations Development Programme (UNDP), the regional commissions and specialized agencies in supporting their political and socio-economic advancement.

It was difficult, if not inconceivable, to think that an arrangement that did not provide political equality would be acceptable to the peoples of the Territories themselves, he said **. But they needed the information to make an informed decision, and it was up to the United Nations, including the administering Powers, to live up to those obligations pursuant to its Charter. That point must remain crystal clear, and the unity of purpose emerging from the Seminar -- the Canouan Consensus -- should provide guidance during the implementation phase.

**(my underline)

The current members of the Special Committee of 24 (The special committee on Decolonisation) are: Antigua and Barbuda, Bolivia, Chile, China, Congo, CRte d'Ivoire, Cuba, Ethiopia, Fiji, Grenada, India, Indonesia, Iran, Iraq, Mali, Papua New Guinea, Russian Federation, Saint Lucia, Sierra Leone, Syria, Tunisia, United Republic of Tanzania, and Venezuela.

Annex to UN 1541 15th Dec 1960. Gives the principles of the process leading to and following self-determination.

Principle I

The authors of the charter of the United Nations had in mind that chapter XI should be applicable to territories which were then known to be of colonial type. An obligation exists to transmit information under article 73 e of the charter in respect of such territories whose peoples have not yet achieved a full measure of self government.**

Comment. **My underline. In the following principles we will see that self-government is realised by successfully achieving one of the three options. Full measure obviously means full measure.

Principle II

Chapter XI of the charter embodies the concept of Non-Self Governing Territories in a dynamic state of evolution and progress towards a "full measure of self-government". As soon as a territory and its people attain a full measure of self-government, the obligation ceases. Until this comes about, the obligation to transmit information under article 73e continues.**

Comment. **My underline. Reporting by Australia ceased after the plebicite, though this was only the precursor of the "progress towards a full measure of self-government". No significant progress has been made in integrating Cocos, so this obligation continues.

Principle III

The obligation to transmit information under article 73e of the charter constitutes an international obligation and should be carried out with the due regard to the fulfillment of international law.**

Comment. My underline**. Self explanatory

.Principle IV

Prima facie there is an obligation to transmit information in respect of a territory which is geographically separate and is distinct ethnically and or culturally from the country administering it.

Comment. Self explanatory. this indicates that Christmas island does not need to be "declared" a TI territory

Principle V

Once it has been established that such a prima facie case of geographical and ethical or cultural distinctness of a territory exists, other elements may then be brought into consideration. These additional elements may be, interalia of an administrative, political, juriditial, economic or historical nature. If they affect the relationship between the metropolitan state and the territory concerned in a manner that places the latter in a position or status of subordination, they support the presumption that there is an obligation to transmit information under article 73e of the charter.

Comment. Self explanatory.

Principle VI

A non-self governing territory can be said to have reached a full measure of self government by:

a) Emergence as a sovereign state. (independence)
b) Fee association with an independent state. (Free association)
c) Integration with and independent state. (integration)

Comment. It is clear to see that there is no mention that a plebicite to decide one of these choices is a method of discharging the Administering State's responsibilities. "Full measure" of self government in our instance would mean Integration as defined below. Anything less triggers the responsibilities under principle I.

Principle VII

a) **(not applicible).**
b) **(not applicible).** Comment. Both concerned with free association.

Principle VIII

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

Comment. My underline. There is little "effective " participation in executive (other than local council), None in the legislative, so follows that none also in the judiciary .

Principles IX to XII goes on to define the integration prerequisites (mostly ignored) and Security limitations on information transmission under 73e.

Australia has been unable to comply with the article 73 or the guidelines for integration. As signatories of the international convention on civil and political rights, the international covenant on economic, social and cultural

rights, and a past member of the committee of 24, Australia would be perverse if it did not to follow the compliance guidelines scrupulously.

Integration has to be in "all equality" with the Domestic state in this case Australia. Equality should be in all levels of administration, judicial, legislative, economic and political. There is obvious inequality in all levels of these criteria. Specifically.
Our administration is appointed by Canberra, and any errors in judgement or process can be effectively and safely ignored, allowing errors to be compounded or ignored, no lobbying by locals (on Cocos) has ever been effective in the change of Administration policy, even when blatantly in error.
Judicial equality is technically good, but is reliant on "colonially" enforced statute.
Legislative equality is a technical impossibility under current regime. Legislation is adopted for Cocos by Senate from WA with no effective reference to the community. This is ipso facto a "colonial" method of legislature.
Economically we have achieved higher standards of living, but at the expense of gainful employment
There is an obvious lack of effective political forum, our single representative in the senate represents us from the Northern Territory. Access can be regarded as good, but even with our Senator's backing and consensus of the community, political inertia has to be overcome. This is a real and constant limitation to the evolution of a self-governing territory and political authority.

Taking the above uncontestable information in hand, it becomes obvious that the Integration process has stalled on its first step. There is no desire Politically or Administratively to swallow this bitter pill. The process of integration is meant to result in Cocos becoming part of the "domestic" states. This has proven to be administratively and politically impossible. The attempt to "attach" Cocos to the NT during its statehood referendum was the best effort to date to progress the integration process, but it was ill advised and would probably not been successful. So Cocos remains *ipso facto* a non-self-governing "external" territory to this day. This is the same status it held when it was declared a chapter XI territory originally. There has been progress, but one cannot say that the integration process has been completed or can ever be completed. Australia's responsibilities to the Territory under the UN charters, covenants and Conventions are not discharged. The right to self-determination is indisputably a norm of jus cogens, this is one of the highest rules of international law and they should be strictly obeyed at all times.

It is a telling point that a number of officials from DoTaRs and its numerous predecessors and advisors have verbally claimed powers plenery. Taking the view that the Cocos Islands act was something that removed all rights and privileges from the community and replaced them and the old Singapore ordinances with WA state statute. This is patently incorrect. Interestingly the official belief in powers plenery (or anything near them) confirms the status of Cocos in the eyes of the Administration as non-self governing, colonially administered and unintegrated. The UN stand on this while not "justicable" is couched in very clear and strong wording. The UN view the administration of such Territories and their evolving integration or self-government is a "sacred trust", and the wishes of the community "properly expressed" being "paramount".

As the territory is plainly not integrated, the following questions need to be asked (and answered).

What is the current legal status of Cocos internationally?
Choices I can think of are:
a) A chapter XI territory.
b) An External Territory of Australia forever. In which case might revert to (a).or evolve to (d)
c) An External Territory that will become internal. (This will stuff up the illegal immigrant business on Christmas but will satisfy the requirements of the plebicite and UN charters, but is politically and administratively impossible).
d) Recognise reality, and negotiate with the people of the territories for close association, which is actually achievable and roughly what the status quo is.

Senate inquiries dating back to 1975 contained Australian thinking that International law had nothing to do with Australian "domestic" law, this stand has obviously evolved. Australia now embraces many International agreements that limit their domestic authority and cases like Tauri Tau show that in "external" and internal territories the way is not always cut and dried. With more and more evidence that in a situation where there arises conflict of international agreement and "domestic" statute the result is complex and each and every case is regarded as unique. More often than not conflicting domestic law will be overturned.

Chapter XI Territories are regarded as "separate and distinct" from the "domestic" state, and rights are recognised under international law. Any territory that has been declared chapter XI has internationally recognised rights. In the situation where these "rights and/or privileges" conflict with Domestic Legislation, it is the UN's view that the community wishes "properly expressed" are paramount. This is not a matter of statute, and is not justicable by the community, but will open a pandora's box when Australia seeks to limit or prohibit the people's rights on Cocos. A case in point is Cocos adoption process, which is contrary to Australian family law. This issue has been studiously

ignored by the Administration after initial efforts to achieve compliance. The Cocos community continues in flagrant disregard of family law. Cocos Islanders will always have rights differing to the "domestic" Territories, and this is unarguable especially in a situation where the wishes "properly expressed" by plebicite to integrate have not been honored. .

It has been argued by Sir Alan Watts to the senate that the right to self-determination is inextinguishable, and was maintained even if full integration was managed. I see no reason to believe that this argument can be countered, as the rights of self-determination were found by the International Court of Justice to be a right held by people rather than a right held by governments alone. In this sense it would be hard to argue that a majority vote of a people could extinguish forever the rights of the dissenters.

In the struggle to address the concerns of standing Governments, political reality, and the day to day administration of the Islands, the bureaucracy with help from the Senate, has created a system that suits them. It has little if any reference to the high moral and political principals it was placed under when declared a chapter XI territory. The UN is quite clear that no circumstance can interfere with the self-determination process. From UN papers:

GENERAL COMMENT 3
The nature of States parties obligations
(Art. 2, para. 1 of the Covenant)
(Fifth session, 1990)

11. The Committee wishes to emphasize, however, that even where the available resources are demonstrably inadequate, the obligation remains for a State party to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances. Moreover, the obligations to monitor the extent of the realization, or more especially of the non-realization, of economic, social and cultural rights, and to devise strategies and programmes for their promotion, are not in any way eliminated as a result of resource constraints. The Committee has already dealt with these issues in its General Comment 1 (1989).
This leaves Australia open to great criticism, as they obviously have the wherewithall, but not the political will. I have seen no programme or schedule though uttering it would be well within the capability of the Administration.

Many of the laws put in place for Cocos (and Christmas) are geographically specific to Western Australia. (main roads mining act, herdsman lake preservation act etc etc etc). Legislation that is not able to be administered (ever) and the sheer mass of it encourages scofflawry. Push bike helmets are technically required in Cocos, but due to the absence of the danger parameters (no motorways, footpaths, or hills and low traffic flow) this legislation is only enforced for minors (I don't disagree), but allows police a "discretionary" authority over adults that they do not have on the mainland. To me it is insulting that the legislation has not been reviewed to ensure it suitability. Cocos had a review process at one stage, but was rapidly disbanded, though I am informed the Christmas Island body still functions.

Article 1 Part 2 of the covenant of Economic,social and Cultural rights:

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.:

Current statutes (EPBC act, Migratory Bird act) conflict with the ability of islanders to subsist on our "natural wealth and resources", these rights pre-exist the "Cocos act", and are part of the signed covenant. It re-inforces that the "ownership" of the natural wealth and resources of the territory are with the people of the Territory. These rights were recognised prior to Australian administration and the territory was accepted with these rights in place. So the natural resources of the Territory are not Australia's to control unilaterally as ownership to the *People* is inalienable. Any attempt to counter this is contrary to international agreements. This is not to say that our wildlife does not need management, but it is the community's to manage.

The way forward is to assess and accept the real limitations imposed on Australia by its own Domestic legislation and Constitution. Either abandon the effort to integrate in an constructive manner and create a real "**programme**" to achieve the required "**dynamic state of evolution"** toward self government in any of its forms, or change the domestic and constitutional limitations to reflect Australia's freely accepted responsibility and integrate in **"complete equality".**

Currently the system of governance is all responsibility and no care, we need to bring it to a balance of care and responsibility.

To address the Inquiry's references;

a)

Accountability. Currently there is no process for accountability. Even when accountability is ascertained for misfeasance or malfeasance, I can only remember of a single case of it ever being taken beyond a mild slap on the wrist. Decision making is done remotely, with little reference to the community. "Policy" is not debated, presented by media release, and generally only adhered to if "revenue neutral".

b)

The role of the Shire in Cocos. The Shire has responsibilities as trustee the land trust, This means it controls the vast majority of the atoll. I believe that there are many areas of conflict between the operations of a Shire Council and those of a trustee to a private land trust.
There is constant pressure for the Shire to take on more state level responsibilities. I cannot see that this would be in the best interests of the community. Shires are separated from State government, and Federal government for good reason. A Shire has direct responsibilities to provide on the ground services to the residents.
Many of our community have not had the benefit of tertiary education, and a number have had no formal education at all. One cannot belittle the efforts made on behalf of the community by our councilors, but the traps and pitfalls created in a state/shire responsibility amalgamation would test the best of people. To foist this on a small community within the current legal frameworks would be asking too much.

c)

Aspirations. Much of the preceding text is the result of my own research arising from my aspirations for more representative form of governance. The majority of residents on Cocos are content with the status quo, seeing rising living standards and housing as a reasonable reward for subjugation. The same people do not seem to understand why there is rampant unemployment, patchy social services, and crumbling sense of community and growing feelings of powerlessness. There are few initiatives created on the mainland that would translate well to Cocos to address problems here.

d)

Governance/economic sustainability. There are some, but few, direct connections between governance and sustainability, but this does not mean that more representative governance would create more economic activity. Compliance with federal regulation, and our "external" standing is onerous, and hard to justify any "exporting" business in the face of Federal regulations. As we are "Federal" on both sides of the "border" who's responsibility is it to help with complience? Anti-growth regulations can be passed with negligible consequence to the political sphere, and without proper budgetary provision for compliance. Margaret

e)

Operations of WA law. All in all WA legislation has addressed the limited view of Australia, but has significant legal problems outlined previously. There are also procedural issues, in that the Territory's budget written by the Commonwealth does not reflect the initiatives, social and or economic put forward by WA state government. The budget is fixed prior to and separate to the WA budget, and has no flexibility to address initiatives put up by WA even though the Commonwealth levies WA taxes. In precis. Budget, legislature and base economics have to be addressed in a more holistic manner to get any chance of a balance. Specifically, if we are taxed to WA levels we should get <u>all</u> WA state functions for our money as and when they are offered by WA state government.

f) **Service delivery agreements are a practical solution to governance issues on Cocos and Christmas Islands. Issues arise when there is no expertise in the pertinent department, or the budget is not sufficient to carry out required works. This is especially true when new agreements are negotiated. Initial entry into an SDA can be expensive, and to operate on expected running cost only would not reflect true entry costs. There has been conflicts in Federal responsibilities and State SDAs. The Cocos Fishery is full of unclear responsibilities and under-funded authorities. Applications for bio-security clearance for importation of live shell fish for breeding in Cocos is expected to "take years".**

g) I would suggest, as outlined previously, that the Commonwealth address the real underlying issues of the requirements of the UN integration process, either comply in totality within a reasonable period and within a written programme, or abandon the effort as impossible and renegotiate a "close association" agreement with the community. This will reflect the requirements of both sides in a much clearer manner, and can be loosely based on the status quo. Real efforts need to be made to address the issue of governance, and budget considerations should not impede this process.

Following release and resolution for information purposes..

The "Canouan consensus" press release.

GOALS IS TO IDENTIFY STEPS NEEDED TO ADVANCE DECOLONIZATION PROCESS,

CARIBBEAN REGIONAL SEMINAR TOLD AT OPENING SESSION

CANOUAN ISLAND, Saint Vincent and the Grenadines, 17 May -- The year 2005 was a significant historical benchmark in the decolonization process, as it marked the convergence of the Millennium Declaration's mid-term review and the five-year review of the Second International Decade for the Eradication of Colonialism, Julian Hunte (Saint Lucia), Chairman of the Special Committee on Decolonization, said today.

In his opening address to the 2005 Caribbean Regional Seminar, he noted that the important pronouncements of the Millennium Declaration review included the international community's re-dedication to the right of self-determination, while that of the review of the Second International Decade was designed to assess the state-of-play in decolonization. A "Canouan Consensus" should offer important insights for implementation of the road map on self-determination.

He said the Millennium Declaration and the two International Decades had been preceded by a long legislative authority for the realization of decolonization -- a series of resolutions adopted by the United Nations General Assembly and Economic and Social Council. Significant mandates were contained in various human rights conventions, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of Racial Discrimination.

Arising from that extensive mandate, he said, was the consistent reaffirmation by all United Nations Member States to develop political education programmes in the Non-Self-Governing Territories on the options of political equality, to provide assistance to the Territories from United Nations agencies, to conduct visiting missions, to make operational the human rights dimension of self-determination, and to promote the repatriation of natural resources to the Territories. The Special Committee was aware of the General Assembly's annual reaffirmation for a transfer of powers to the peoples of the Non-Self-Governing Territories, consistent with sustained requests for such devolution of power resonating in many of those Territories. Forward-thinking recommendations had been advanced by their peoples, including for the enhancement of the role of such United Nations bodies as the Electoral Assistance Division, the United Nations Development Programme (UNDP), the regional commissions and specialized agencies in supporting their political and socio-economic advancement.

He said the Special Committee was further mindful of the measures called for in the plans of action of the two International Decades, especially the essential research and analysis on the situation in the individual Territories that was crucial to bridging the information deficit on decolonization. However, that issue was very much unresolved precisely because implementation of the decolonization mandate had been woefully inadequate. Unless the second half of the present decade concentrated on implementation, the Special Committee would continue in a never-ending spiral of inaction.

However, he stressed, the Special Committee did not intend to be a party to a process of inaction, with the adoption of resolutions as its only goal, but rather to accelerate efforts to expand its engagement with the wider United Nations system and other relevant bodies. UNDP's role in supporting the constitutional reform process in Anguilla several years ago, and its present assistance to the United Nations Special Mission to Bermuda were important demonstrations of the role that Programme could play in modernizing governance models in the remaining Territories. On the Pacific side, discussions on UNDP assistance to New Zealand-administered Tokelau, as it proceeded towards free association, was another promising development.

The goal in Canouan was to ascertain the steps needed to advance the decolonization process, he said. Hopefully, the 2005 Seminar would heighten the awareness of Member States on the complexities of the situation in the individual Territories and enhance the knowledge base of their representatives on the statutory role of the wider United Nations system in facilitating the attainment of absolute political equality. Hopefully the Seminar would be able to elaborate the importance of the minimum standards of absolute political equality set forth in the legitimate political status options of integration, free association or independence.

Opening the Seminar on behalf of the host Government, Michael Browne, Minister of Foreign Affairs, Commerce and Trade, noted that the creation of the first International Decade for the Eradication of Colonialism was to have initiated a programme of action for the final phase of the decolonization process, with equal attention being placed on free association and integration alongside independence, as the three legitimate political status options. Unfortunately, that Decade had not reduced the ranks of the Non-Self-Governing Territories, largely due to the lack of political will and administrative competency in implementing the decolonization mandate.

He said it was important to remain flexible on the parameters of self-government, while also remaining true to those principles that ensured that a full measure of self-government was achieved in the remaining Territories. Just because most of the remaining 16 Non-Self-Governing Territories were small islands in the Caribbean and the Pacific did not mean that the principle of political equality should not continue to apply to them, a perspective that had been a consistent theme throughout the regional seminars. While the decolonization process was not yet complete, it had taken on a new and complex dimension in the present era of accelerating globalization, which required innovative strategies to meet the target of full decolonisation by the end of the present decade.

Caribbean countries took seriously their responsibility of fostering self-determination and

decolonization, especially in neighbouring countries that were part and parcel of the Caribbean civilization, but which had not yet achieved full self-determination, he emphasized. That was especially critical in the Eastern Caribbean since some of the smallest Territories were regarded as integral to the region's social and economic fabric. All six independent member countries of the Organisation of Eastern Caribbean States (OECS) were members of the Special Committee.

Noting that Caribbean Governments had provided important mechanisms for the integration of many Non-Self-Governing Territories into the region's institutions, he said five of them were associate members of the OECS and one was a full member. Similarly, five of the Territories were associate members of the Caribbean Community (CARICOM), while one was a full member. Further, two of the Territories under the Special Committee's review shared the common East Caribbean currency. Saint Vincent and the Grenadines viewed the continued and expanded partnership of those Territories in regional institutions as a natural part of the Caribbean regional integration process and the relevant General Assembly resolutions made specific reference to the role of CARICOM and the Pacific Islands Forum in the development of Non-Self-Governing Territories.

Secretary-General Kofi Annan said, in a message read out by Maria Maldonado, Chief of the Decolonization Unit, Department of Political Affairs, that the Seminar provided a valuable opportunity to take stock of the progress made in decolonization, and to formulate strategies to eradicate colonialism before the end of the present decade. The successes of the United Nations in decolonization should inspire and encourage efforts to ensure that the people of the remaining Non-Self-Governing Territories could exercise their right to self-determination and, towards that end, it was essential that they understand the options regarding their political status and their right to choose their future freely.

It was also important that the people of the Non-Self-Governing Territories be aware of the United Nations activities and assistance programmes available to them, he said. As it had been seen in the case of Tokelau, cooperation on the part of all concerned was vital, especially the administering Powers. The Secretariat would continue to support the Committee's efforts and stood ready to help develop decolonization plans on a case-by-case basis with the participation of the representatives of the peoples of the Non-Self-Governing Territories.

In other business on the opening day, the Seminar elected three Vice-Chairs: Birhanemeskel Abebe (Ethiopia), Albert Sitnikov (Russian Federation) and Crispin Gregoire (Dominica). Orlando Requeijo Gual (Cuba) was elected Rapporteur and Chairman of the Drafting Group.

The Seminar then took up the mid-term assessment of progress in implementing the plan of action of the Second International Decade for the Eradication of Colonialism, and assessment of progress in individual Non-Self-Governing Territory in achieving sustainable political, social and economic development.

On that question, the Seminar heard from various experts and representatives from the United States Virgin Islands, American Samoa, Western Sahara, Saint Helena, Anguilla, British Virgin Islands, Gibraltar and the Turks and Caicos Islands.

Among Member States making statements, the representatives of Morocco, Algeria, Cuba and Papua New Guinea all addressed the specific question of Western Sahara, which dominated much of the afternoon's discussion.

The Seminar will meet again at 9 a.m. tomorrow, Wednesday 18 May, when it is expected to continue its assessment of progress in individual Non-Self-Governing Territories in sustainable political, social and economic development.

FACTORS INDICATIVE OF THE FREE ASSOCIATION OF A TERRITORY ON EQUAL

BASIS WITH THE METROPOLITAN OR OTHER COUNTRY AS AN INTEGRAL PART OF

THAT COUNTRY OR IN ANY OTHER FORM

For information UN resolution 742

742 (VIII). Factors which should be taken into account in deciding whether a Territory is or is not a Territory whose people have not yet attained a full measure of self-government.

A. General

1. Opinion of the population. The opinion of the population of the Territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.

2. Freedom of choice. The freedom of the population of a Non-Self-Governing Territory which has associated itself with the metropolitan country as an integral part of that country or in any other form to modify this status through the expression of their will

be democratic means.

3. Geographical considerations. Extent to which the relations of the Territory with the capital of the central government may be affected by circumstances arising out of their respective geographical positions, such as separation by land, sea or other natural obstacles. The right of the metropolitan country or the Territory to change the political status of that Territory in the light of the consideration whether that Territory is or is not subject to any claim or litigation on the part of another State.

4. Ethnic and cultural considerations. Extent to which the populations are of different race, language or religion or have a distinct cultural heritage, interests or aspirations, distinguishing them from the peoples of the country with which they freely associate themselves.

5. Political advancement. Political advancement of the population sufficient to enable them to decide upon the future destiny of the Territory with due knowledge.

6. Constitutional considerations. Association by virtue of a treaty or bilateral agreement affecting the status of the Territory, taking into account (i) whether the constitutional guarantees extend equally to the associated Territory, (ii) whether there are powers in certain matters constitutionally reserved to the Territory or in the central authority, and (iii) whether there is provision for the participation of the Territory on a basis of equality in any changes in the constitutional system of the State.

B. Status

1. Legislative representation. Representation without discrimination in the central legislative organs on the same basis as other inhabitants and regions.

2. Participation of the population. Effective participation of the population in the government of the Territory: (a) Is there an adequate and appropriate electoral and representative system? (b) Is this electoral system conducted without direct or indirect interference from a foreign government?

3. Citizenship. Citizenship without discrimination on the same basis as other inhabitants.

4. Government officials. Eligibility of officials from the Territory to all public offices of the central authority, by appointment or election, on the same basis as those from other parts of the country.

C. Internal constitutional conditions

1. Suffrage. Universal and equal suffrage, and free periodic elections, characterized by an absence of undue influence over and coercion of the voter or of the imposition of disabilities on particular political parties.

2. Local rights and status. In a unitary system equal rights and status for the inhabitants and local bodies of the Territory as enjoyed by inhabitants and local bodies of other parts of the country; in a federal system an identical degree of self-government for the

inhabitants and local bodies of all parts of the federation.

3. Local officials. Appointment or election of officials in the Territory on the same basis as those in other parts of the country.

4. Integral legislation. Local self-government of the same scope and under the same conditions as enjoyed by other parts of the country.

5. Economic, social and cultural jurisdiction. Degree of autonomy in respect of economic, social and cultural affairs, as illustrated by the degree of freedom from economic pressure as exercised, for example, by a foreign minority group which, by virtue of the help of a foreign Power, has acquired a privileged economic status prejudicial to the general economic interest of the people of the Territory; and by the degree of freedom and lack of discrimination against the indigenous population of the Territory in social legislation and social developments.

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