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THIRD INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

**Pacific regional seminar on the implementation of the Third International
Decade for the Eradication of Colonialism: commitments and actions for
decolonization in the Non-Self-Governing Territories**

**Managua, Nicaragua
31 May to 2 June 2016**

DISCUSSION PAPER

PRESENTATION

BY

MR. RICHARD TUHEIAVA

Mr. Richard Ariihau TUHEIAVA
Statement to Special Committee on Decolonization
U.N. Pacific Regional Seminar
Managua, Nicaragua
31 May – 2 June 2016

Mr. Chairman, representatives of U.N. member states, distinguished, representatives of regional bodies and non self-governing territories, colleague experts, ladies and gentlemen,

As per my position of elected member of the House of Assembly of French Polynesia from the Group “Union Pour La Démocratie” (U.P.L.D.), and as invited expert, it is my privilege to extend warmest regards from the people of Ma’ohi Nui/French Polynesia, and express our congratulations to you on your election to serve as Chairman of the Special Committee on Decolonization.

Let me also acknowledge the warm hospitality and strong dedication of the Government of the Republic of Nicaragua to the objectives of the Special Committee by hosting this Regional Seminar for the second time in its beautiful capital Managua.

Mr. Chairman,

17th May 2016 marked the three years period since the return of French Polynesia/Ma’ohi Nui to the United Nations list of non self-governing territories. Resolution 67/265 re-inscribing our territory ushered in the resumption of the statutory role of the administering Power to fulfill its responsibilities under the United Nations Charter to, first, recognize the validity of our decolonization process, and, then, to advance that process according to international principles.

Our re-inscription also broadened the complementary role that the U.N. system is obligated to play in supporting a **credible and genuine process** of self-determination leading to the decolonization of our territory in accordance with international law.

Since the 2013 re-inscription, a total of four consensus resolutions on French Polynesia have been adopted by the General Assembly on the recommendation of the Decolonization Committee, and a fifth is in its embryonic stage for consideration by the Committee in a few weeks. We ask that member States pay close attention to the substantive **updating** of these resolutions to ensure that new developments are properly reflected.

In this connection, it has been our task to advocate strongly for not only the effective implementation of the measures called for in the resolutions, but also for the inclusion of issues in the resolutions which are sometimes omitted from the text, and thus, delaying our decolonization.

At this stage, it is important to highlight three key provisions of resolutions on our territory, to examine their implementation, and to identify substantive areas that have been omitted:

Key Substantive Areas in resolutions on French Polynesia:

*** Responsibilities of the administering Power**

The four resolutions on French Polynesia (Ma'ohi Nui) call upon our administering Power to participate in, and cooperate fully with, the work of the Special Committee in order to implement the provisions of Article 73 b and 73 e of the UN Charter with respect to French Polynesia, and to facilitate visiting and special missions to the Territory.

We remain thoroughly disappointed that the administering Power refuses to acknowledge the re-inscription of our territory on the list of the Special

Committee, and actually vacates its seat and leaves the room when the item is discussed at the C-24 and Fourth Committee since 2013.

It is to be recalled that the pro-independence leaders of the F.L.N.K.S. themselves faced similar challenge when New Caledonia/Kanaky was re-inscribed on the list of the Non-Self Governing Territories of the U.N. back in 1987. The key-element for France to finally come and sit around the table of discussions within this Committee was the signature of the 'Accords of Matignon' in 1988, after that dramatic military exactions occurred on the island of Ouvea. These dramatic events still remain in our collective memories.

We remain of the view that the rule of law applies to all States, not just a few. So we call upon the Government of France to live up to its international legal obligations by providing information to the U.N. under Article 73*e* of the U.N. Charter, and to fully cooperate with the Decolonization Committee in working towards the advancement of the decolonization process of French Polynesia/Ma'ohi Nui under Article 73*b* of the Charter.

Mr. Chairman,

We have observed recent developments on this issue, as French Polynesia's elected government recently stated its intention to come and address the Fourth Committee at its next session on October 2016 in New York, with the support of our administering Power.

At first sight, this might be a positive development because it is providing substance to the self-determination process of French Polynesia since its re-inscription, nevertheless we wish to inform the present Committee that the intention of such move is to strengthen the current political *status quo* with the administering Power and to possibly introduce a bilateral 'accord' to be concluded this year between French Polynesia and French governments, without the scrutiny of the Special Committee.

The terms of such 'accord' were publicly drafted by the President of the French Republic Hollande during his official visit in our Territory on last February, and it appeared that the purpose of such bilateral document was to extend the

administering Power's '**assimilation policy**', applicable within its 'Overseas Departments', to the Territory of French Polynesia/Ma'ohi Nui.

Therefore, it is our interpretation that such process hides nothing more than a counter-strategy to block, or at least **deviate** the self-determination process initiated at the U.N. level and to prevent the administering Power from acknowledging the decolonization mandate and fulfilling its obligations from the U.N. Charter.

In this regard, the doctrine of 'transfer of powers' contained in the Decolonization Declaration of 1960 must be invoked if a process of self-determination is to be **fair**, and if the results are to be **genuine**. In a broader sense, repeated General Assembly resolutions supporting a primary U.N. role in the **political education program** on the legitimate decolonization options of political equality should also be implemented, along with other actions mandated by decolonization resolutions.

* **Nuclear Testing**

The next substantive area is nuclear testing. The last three resolutions on French Polynesia/Ma'ohi Nui made reference to the humanitarian impact of 193 atmospheric and underground nuclear tests over a thirty years period ending in 1996.

In this connection, General Assembly Resolution 68/93 of December 2013 called for a study to be conducted by the Secretary-General on the "*environmental, ecological, health and other impacts as a consequence of the thirty year period of nuclear testing*" in French Polynesia. This was patterned after a 2011 report of the Secretary-General on the "*Effects of atomic radiation in the Marshall Islands*".

We reiterate our **disappointment** that the release of the report (July 2014), came a month after the Special Committee's regular session that year, so there was no possibility for discussion of its findings.

After reviewing the report, we understood why it may not have been made available for consideration since it was far from comprehensive and was comprised of a mere compilation of replies from just two U.N. agencies out of some 22 requests for information. The Report barely addressed the issue, and failed to assess the humanitarian impacts of the nuclear tests. One of the references in the Secretary General's report was to an outdated 1996 International Atomic Energy Agency (IAEA) study that said, at the time, that the impact to the health of the Ma'ohi people as a result of the nuclear tests was 'negligible'.

A later document of the U.N. Scientific Committee on the Effects of Atomic Radiation - curiously not referenced in the Secretary General's Report - quite properly found "*that the testing of nuclear weapons in the atmosphere involved unrestrained releases of radioactive materials to the environment locally, regionally and globally (depending on the altitude of the explosion), causing the largest collective dose thus far from manmade sources of radiation.*"

Moreover, the Secretary-General's Report did not make reference to a Bill adopted by the French Parliament in January 2010 to compensate the health consequences of its nuclear testing in Algeria and in French Polynesia. Hence, no reference could be made on how the administering Power has legally blocked the process of financial compensation for most of the claimers.

Another Bill adopted on December 2013 by the French Parliament has discreetly recognized that the radioactive fallouts of the 46 aerial nuclear testing between 1966 and 1974 have **affected all the Territory of French Polynesia**, instead of a few zones only.

Accordingly, during his official visit on last February 2016, French President has stated that the French nuclear testing performed between 1966 and 1996 in French Polynesia have had environmental and health consequences, and that their ceasing caused social consequences as well.

The question is: why our administering Power does not address accordingly the Special Committee and the Fourth Committee in order to confirm these facts?

Mr. Chairman,

We have advised the Special Committee and the Fourth Committee on numerous occasions that inadequate substantive reports on such key issues does the people of the territory a **disservice**, and does not advance the decolonization process.

On several occasions, we have offered to provide for consideration of the Special Committee the comprehensive **2014 Independent Report** on "*The French Nuclear Testing in French Polynesia*" which had been prepared by renowned French scientist that comprehensively analyses the impacts of nuclear testing. We still are having this 'Independent Report' available for distribution to all members of the Special Committee.

Accordingly, we again ask you, in your capacity as Chairman of this Committee, or in your national capacity, to formally request the Secretary-General to **publish this Independent Study as a document of the General Assembly, consistent with established U.N. procedures**, so that it can be made part of the substantive documentation under the relevant decolonization and disarmament agenda items.

Mr. Chairman,

On this same issue, the Assembly of French Polynesia in November 2014 successfully adopted a **historical** resolution calling upon France to acknowledge the **colonial nature** of its nuclear testing programme over the thirty years of military occupation of the atolls of Moruroa and Fangataufa.

This French Polynesia Assembly resolution was provided to the Special Committee in early 2015, but curiously, was neither reflected in the two subsequent Secretariat Working Papers, nor in the 2015 U.N. resolution on French Polynesia.

At this stage, we still have this resolution available to all members of the present Committee, and we would simply ask that the Special Committee include in its resolution specific reference to the fact that the Assembly of French Polynesia did pass a formal resolution in December 2014 addressing the nuclear compensation question.

Very recently, a proposal of new resolution from my Group U.P.L.D. was formally submitted to the Speaker of the Assembly of French Polynesia in order to request the administering Power to reimburse the health costs of 21 radioactive diseases caused by the French nuclear testing in our territory, unfairly covered by French Polynesia's own Health System from 1992 through 2016; for your information, the provisional cost of such claim reaches 506 millions USD.

* **Ownership of Natural Resources**

The U.N. General Assembly has adopted a host of resolutions confirming that the ownership, control and permanent sovereignty of natural resources, including marine resources, lies with the peoples of the non self-governing territories as part of their heritage.

Since our re-inscription in 2013, the ownership of natural resources by the people of a territory has been formally made applicable to French Polynesia/Ma'ohi Nui. We have stressed the importance of the **ownership of natural resources** as a core issue for the people of the territory in repeated statements to the Special Committee and the Fourth Committee. Despite this information, no specific reference has been made to the seizure of the marine resources of the territory by the administering Power, in clear contravention of international law.

The resources of French Polynesia/Ma'ohi Nui's five million square-kilometers Exclusive Economic Zone (EEZ) are considerable.

The current political *status quo* encapsulated in the current 'Autonomy Status' of French Polynesia allows the administering Power to fully control '**strategic**' raw materials within the EEZ of French Polynesia. Therefore, France retains the **unilateral authority**, by a single Presidential decree in Paris, to decide what raw material is or not 'strategic' without the consultation of the people of our Territory and its local elected government.

This deprives the people of French Polynesia of the means to build a sustainable economic and social future, and to move away from the profound economic dependency created by the false economy based on the legacy of the French nuclear testing.

Since decades, numerous scientific studies said that French Polynesia's EEZ was abundant in terms of **seabed mineral resources** such as Rare earths, Cobalt, Manganese, platinum etc.

A very recent international study delivered in April 2016, co-funded by the administering Power and by the local elected government of French Polynesia, confirmed the presence of important quantity of Cobalt and other metals within the EEZ of the Territory, but also minimized the presence of 'rare earths'. Surprisingly, this study was made **without any submarine exploration** and was a collection of scientific documentation and studies published over the past decade...

Up to this point, the resolution on French Polynesia has been silent on this core issue of ownership of the territory's natural resources, despite our repeated pronouncements.

Coupled with other omissions, we highly recommend that the substantive references contained in the following Annex to this paper be included in the 2016 resolution on the French Polynesia to be adopted by the Special Committee in the coming weeks.

Thank you Mr. Chairman

Richard TUHEIAVA

ANNEX

PROPOSED SUBSTANTIVE UPDATES TO RESOLUTION A/Res/70/100

ANNOTATED

Question of French Polynesia

The General Assembly,

Having considered the question of French Polynesia,

Having examined the chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples for 2015 relating to French Polynesia,

Reaffirming the right of peoples to self-determination, as enshrined in the Charter of the United Nations and in accordance with all relevant resolutions, including General Assembly resolutions 1514 (XV) of 14 December 1960 and 1541 (XV) of 15 December 1960,

Recalling its resolution 67/265 of 17 May 2013, entitled "Self-determination of French Polynesia", in which it affirmed the inalienable right of the people of French Polynesia to self-determination and independence in accordance with Chapter XI of the Charter and its resolution 1514 (XV), recognized that French Polynesia remains a Non-Self-Governing Territory within the meaning of the Charter, and declared that an obligation exists under Article 73 e of the Charter on the part of the Government of France, as the administering Power of the Territory, to transmit information on French Polynesia,

Taking note of the section related to French Polynesia of the Final Document of the Seventeenth Ministerial Conference of the Movement of Non-Aligned Countries, held in Algiers from 26 to 29 May 2014,

Expressing concern that 55 56 years after the adoption of the Declaration on the Granting of Independence to Colonial Countries and Peoples, there still remain a number of Non-Self-Governing Territories,

Recognizing that all available options for self-determination of the Territories are valid as long as they are in accordance with the freely expressed wishes of the peoples concerned, on a case-by-case basis and in conformity with the clearly defined principles contained in General Assembly resolutions 1514 (XV), 1541 (XV) and other relevant resolutions of the Assembly,

Recognizing also that the specific characteristics and the aspirations of the peoples of the Territories require flexible, practical and innovative approaches to the options for self-determination, on a case-by-case basis,

(NEW PP) REAFFIRMING THE INALIENABLE RIGHTS OF THE PEOPLES OF FRENCH POLYNESIA TO THE OWNERSHIP, CONTROL AND DISPOSAL OF

THEIR NATURAL RESOURCES, INCLUDING MARINE RESOURCES ¹ AND UNDERSEA MINERALS CONTAINED THEREIN, ²

Conscious of the responsibility of the administering Power to ensure the full and speedy implementation of the Declaration in respect of French Polynesia,

Mindful that, in order for the Special Committee to enhance its understanding of the political status of the peoples of the Territories and to fulfil its mandate effectively, on a case-by-case basis, it is important for it to be apprised by the administering Powers and to receive information from other appropriate sources, including the representatives of the Territories, concerning the wishes and aspirations of the people of the Territories,

Recognizing the significant health and environmental impacts of nuclear testing conducted by the administering Power in the Territory over a 30-year period, and *recognizing also* the concerns in the Territory related to the consequences of those activities for the lives and health of the people, especially children and vulnerable groups, as well as the environment of the region, and bearing in mind General Assembly resolution ~~69/84 of 5 December 2014~~, **70/81 of 9 DECEMBER 2015** entitled "Effects of atomic radiation",

Recalling the report of the Secretary-General on the environmental, ecological, health and other impacts of the 30-year period of nuclear testing in French Polynesia, prepared pursuant to paragraph 5 of General Assembly resolution 68/93 of 11 December 2013, **AWARE THAT THE REPORT WAS NOT AS COMPREHENSIVE AS ORIGINALLY ENVISAGED, AND TAKING NOTE OF THE INDEPENDENT REPORT ON FRENCH NUCLEAR TESTING IN FRENCH POLYNESIA COMPLETED IN 2014 THAT PROVIDES A COMPREHENSIVE ANALYSIS OF THE IMPACTS OF NUCLEAR TESTING,**³

BEARING IN MIND THE RESOLUTION ADOPTED BY THE ASSEMBLY OF FRENCH POLYNESIA ON 27 NOVEMBER 2014 WHICH RECOGNIZED THE COLONIAL NATURE OF THE NUCLEAR TESTING, AND CALLED FOR, INTER ALIA, COMPENSATION FROM THE ADMINISTERING POWER FOR THE ENVIRONMENTAL DAMAGE AND HEALTH IMPACTS CAUSED BY THE NUCLEAR TESTING,⁴

¹ *See* OP8 and OP9 of Resolution 70/95 of 9 December 2015, and *See also* OP14 of Resolution 70/231 (23 December 2015).

² See Statement of H.E. Richard Tuheiava, Member of the House of Assembly of French Polynesia, to the United Nations Special Political and Decolonisation Committee (Fourth Committee) United Nations Document A/C.4/70/SR.3, (9 October 2015).

³ See Statement of Mr. Moetai Brotherson, Deputy Mayor, Faa', Tahiti (French Polynesia), to the United Nations Special Political and Decolonisation Committee (Fourth Committee) United Nations Document A/C.4/70/SR.3, (9 October 2015).

⁴ See Statement of H.E. Richard Tuheiava, Member of the House of Assembly of French Polynesia, to the United Nations Special Committee on Decolonization 26 June 2015.

Recognizing the need for the Special Committee to ensure that the appropriate bodies of the United Nations actively pursue a public awareness campaign aimed at assisting the peoples of the Territories in gaining a better understanding of the options for self-determination,

(NEW OP) TAKING INTO ACCOUNT THE 2016 SECRETARIAT WORKING PAPER ON THE TERRITORY WHICH REPORTED THAT FRENCH POLYNESIA "DOES NOT HAVE POLITICAL AUTONOMY",⁵ CONCERNED THAT THE UNILATERAL CONTROL OF THE ADMINISTERING POWER TO MODIFY THE LAWS AND PROCEDURE GOVERNING THE ELECTORAL PROCESS IN THE TERRITORY MAY ADVERSELY AFFECT THE DEMOCRATIC PROCESS, AND BEARING IN MIND THE INDEPENDENT "ASSESSMENT ON THE LEVEL OF SELF-GOVERNMENT OF FRENCH POLYNESIA" WHICH ANALYZED THE INCONSISTENCIES OF THE PREVAILING POLITICAL STATUS OF THE TERRITORY WITH INTERNATIONAL PRINCIPLES OF SELF-GOVERNMENT,⁶

1. *Reaffirms* the inalienable right of the people of French Polynesia to self-determination **AND INDEPENDENCE**⁷, in conformity with the Charter of the United Nations and with General Assembly resolution 1514 (XV), containing the Declaration on the Granting of Independence to Colonial Countries and Peoples;

2. *Also reaffirms* that it is ultimately for the people of French Polynesia to determine freely their future political status in accordance with the relevant provisions of the Charter, the Declaration and the relevant resolutions of the General Assembly, and in that connection calls upon the administering Power, in cooperation with the territorial Government and appropriate bodies of the United Nations system, to develop political education programmes for the Territory in order to foster an awareness among the people of French Polynesia of their right to self-determination in conformity with the legitimate political status options, based on the principles clearly defined in Assembly resolution 1541 (XV) and other relevant resolutions and decisions;

3. *Calls upon* the administering Power to participate in and cooperate fully with the work of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples in order to implement the provisions of Article 73 e of the Charter and the Declaration and in order to advise the Special Committee on the implementation of the provisions under Article 73 b of the Charter on efforts to promote self-government in French Polynesia, and encourages the administering Power to facilitate visiting and special missions to the Territory;

4. *Regrets* that the administering Power has not responded to the request to submit information on French Polynesia under Article 73 e of the Charter;

⁵ See "French Polynesia, Working paper prepared by the Secretariat, Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples," A/AC.109/2016/7, (5 February 2016).

⁶ See Statement of Dr. Carlyle G. Corbin, Dependency Studies Project, to the United Nations Special Political and Decolonisation Committee (Fourth Committee) United Nations Document A/C.4/70/SR.3, (9 October 2015).

⁷ See OP 1 of Resolution 67/265 on "Self-determination of French Polynesia."

5. *Reaffirms* that an obligation exists on the part of the administering Power to transmit information under Chapter XI of the Charter, and requests the administering Power to transmit to the Secretary-General such information on French Polynesia as called for under the Charter;

(NEW OP 6) URGES THE ADMINISTERING POWER CONCERNED TO ENSURE THE PERMANENT SOVEREIGNTY OF THE PEOPLES OF FRENCH POLYNESIA OVER THEIR NATURAL RESOURCES, INCLUDING MARINE RESOURCES AND UNDERSEA MINERALS, IN ACCORDANCE WITH THE RELEVANT RESOLUTIONS OF THE UNITED NATIONS GENERAL ASSEMBLY, DECISIONS OF THE INTERNATIONAL COURT OF JUSTICE ON THE OWNERSHIP OF NATURAL RESOURCES BY NON SELF-GOVERNING TERRITORIES, AND RELEVANT UNITED NATIONS LEGAL OPINIONS;⁸

(NEW OP7) REQUESTS THE UNITED NATIONS SCIENTIFIC COMMITTEE ON THE EFFECTS OF ATOMIC RADIATION (UNSCEAR), WHOSE MANDATE IS TO ASSESS AND REPORT LEVELS AND EFFECTS OF EXPOSURE TO IONIZING RADIATION, TO CONSIDER THE INCLUSION OF FRENCH POLYNESIA IN ITS PROGRAMME OF WORK,,⁹ **AND FURTHER REQUESTS THAT THE INDEPENDENT REPORT ON FRENCH NUCLEAR TESTING IN FRENCH POLYNESIA COMPLETED IN 2014 BE PUBLISHED AS A DOCUMENT OF THE GENERAL ASSEMBLY FOR THE CONSIDERATION OF MEMBER STATES;**

6. 8. Calls upon the administering Power to intensify its dialogue with French Polynesia in order to facilitate rapid progress towards a fair and effective self-determination process, under which the terms and timelines for an act of self-determination would be agreed;

7. 9. Requests the Special Committee to continue to examine the question of the Non-Self-Governing Territory of French Polynesia and to report thereon to the General Assembly at its seventy-first session **ON THE IMPLEMENTATION OF THE PRESENT RESOLUTION.**

⁸ 1 op. cit.; Also see: U.N. Legal Opinion, "Letter dated 29 January 2002 from the Under-Secretary-General for Legal Affairs, the Legal Counsel, (Hans Corell Under-Secretary-General for Legal Affairs) addressed to the President of the Security Council," U.N. Document S/2002/161, (12 February 2002).

⁹ See "Report of the United Nations Scientific Committee on the Effects of Atomic Radiation," Sixty-second session (1-5 June 2015), General Assembly Official Records Seventieth session Supplement No. 46, U.N. document A/70/46, (2015).