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Human Rights Council

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Agenda item 10

Technical assistance and capacity-building

Australia,* Fiji,* Marshall Islands, Nauru,* Samoa* and Vanuatu*: draft resolution

51/... Technical assistance and capacity-building to address the human rights implications of the nuclear legacy in the Marshall Islands

The Human Rights Council,

Guided by the Charter of the United Nations and the Universal Declaration of Human Rights,

Reaffirming the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and other relevant international human rights instruments,

Reaffirming also its strong commitment to the protection, promotion and fulfilment of the human rights of all people, including the people of the Marshall Islands,

Recognizing the primary responsibility of States to promote and protect human rights and fundamental freedoms,

Recalling all Human Rights Council resolutions on human rights and the environment, the most recent of which are resolutions 45/17 of 6 October 2020, 45/30 of 7 October 2020, 46/7 of 23 March 2021 and 48/13 of 8 October 2021,

Recalling also the adoption of Human Rights Council resolution 48/13 on 8 October 2021 and General Assembly resolution 76/300 on 28 July 2022, recognizing the human right to a clean, healthy and sustainable environment,

Reaffirming its commitment to the implementation of the 2030 Agenda for Sustainable Development, notably with regard to target 12.4 of Sustainable Development Goal 12, on achieving the environmentally sound management of chemicals and all wastes throughout their life cycle, in accordance with agreed international frameworks, and significantly reducing their release to air, water and soil in order to minimize their adverse impacts on human health and the environment,

Recalling that, between 1946 and 1958, 67 known nuclear weapons were tested in the Marshall Islands while it was under United Nations trusteeship,

Recalling also that, on 6 May 1954, the people of the Marshall Islands filed a petition with the United Nations Trusteeship Council regarding the nuclear testing, in which they

* State not a member of the Human Rights Council.

stated that they were not only fearful of the danger to their persons from these deadly weapons, but also concerned about the increasing number of people removed from their land, and requested that all experiments with lethal weapons in the area be immediately ceased, and that after the Trusteeship Council heard the petition, on 20 August 1954, the nuclear testing programme continued until 1958,

Recalling further that, in 1986, the Government of the United States of America and the Government of the Republic of the Marshall Islands entered into bilateral agreements that provided for the settlement of all claims, past, present, and future, arising from the nuclear testing and that the Republic of the Marshall Islands has lodged a changed circumstances petition with the Congress of the United States of America pursuant to these bilateral agreements, which remains pending,

Bearing in mind the report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes on his mission to the Marshall Islands,¹ in which the Special Rapporteur reported that the nuclear testing in the Marshall Islands had immediate and continuing effects on human rights that resulted in fatalities and serious health complications, and that the radiation had led to environmental contamination and the loss of livelihoods and lands,

Also bearing in mind the report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment on a non-toxic environment,² in which he reported that people in the Marshall Islands continued to suffer the adverse effects of radiation from nuclear tests, resulting in elevated levels of cancer, birth defects and psychological trauma that continue to this day and that Marshallese women and girls suffered disproportionately from thyroid and other cancers and from reproductive health problems,

Expressing serious concern that the toxic nuclear waste and the nuclear radiation and contamination poses serious threats to the environment and the people of the Marshall Islands, and continues to have an adverse impact on the human rights of the people of the Marshall Islands, including persons belonging to displaced communities, and to hinder the full realization and enjoyment of human rights, inter alia, the rights to life, to the enjoyment of the highest attainable standard of physical and mental health, to an adequate standard of living, to adequate food, to housing, to safe drinking water and sanitation, and to participation in cultural life, and their enjoyment of a clean, healthy and sustainable environment, for present and future generations,

Expressing serious concern also at the correlation between exposure to nuclear fallout, radiation and contamination and an increased and disproportionate risk of non-communicable diseases, in particular cancer, in the Marshall Islands, which hinders the full realization and enjoyment of human rights of its people,

Recognizing that the Marshall Islands, as a small island developing State, does not have the technical capacity or resources to remove from its territory or treat the nuclear and toxic wastes from the nuclear tests, particularly the waste contained in the concrete dome on Runit Island of Enewetak Atoll,

Recognizing also that the Marshall Islands, as a small island developing State, does not have the technical capacity or resources to remove from its territory the nuclear radiation and contamination embedded in the environment, including the local flora and fauna, particularly on and surrounding the atolls and islands used for the nuclear weapon tests,

Recognizing further that the Government of the Marshall Islands does not have the technical capacity or resources to build or provide health-care facilities with medical equipment used for the detection, prevention or treatment of cancers and other non-communicable diseases stemming from exposure to nuclear radiation and contamination, and as a result, many affected people of the Marshall Islands have had to seek medical treatment abroad,

¹ A/HRC/21/48/Add.1.

² A/HRC/49/53.

Recognizing that environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy human rights, including the right to life,

Reaffirming the importance of a clean, healthy and sustainable environment as critical to the enjoyment of all human rights,

1. *Affirms* the importance of addressing the adverse impact of the nuclear legacy on the realization and enjoyment of human rights by the people of the Marshall Islands;

2. *Recognizes* that the Government of the Marshall Islands is not responsible for the nuclear weapons testing that caused its nuclear legacy and the harm done to its people, which occurred while the Marshall Islands was under United Nations trusteeship, and strongly encourages the United Nations to assist the Government of the Marshall Islands to address the adverse impact of the nuclear legacy;

3. *Commends* the Government of the Marshall Islands for its efforts to address the impacts of the nuclear testing on the people of the Marshall Islands and for its efforts towards the full realization and enjoyment of their human rights;

4. *Notes* that the Marshall Islands recognizes the right to a clean, healthy and sustainable environment and also notes the State's commitment to protect, promote and fulfil this right for its people when addressing the human rights implications of the nuclear legacy;

5. *Recognizes* that nuclear waste, radiation and contamination remains a challenge and a barrier to the full realization and enjoyment of human rights by the people of the Marshall Islands, including the enjoyment of a clean, healthy and sustainable environment in the Marshall Islands;

6. *Acknowledges* that the people of the Marshall Islands living with the impacts of exposure to nuclear waste, radiation and contamination should continue to be assisted to advance the full realization and enjoyment of their human rights;

7. *Emphasizes* the importance of protecting and promoting the human rights of the people of the Marshall Islands, particularly those suffering from adverse health and other effects resulting from exposure to nuclear and toxic waste, nuclear radiation and contamination resulting from the nuclear weapons testing;

8. *Urges* Member States, relevant United Nations agencies and other stakeholders to support the Government of the Marshall Islands in its efforts to improve the health of its people and environment;

9. *Recalls* that addressing the nuclear legacy of the Marshall Islands is a regional priority for the Pacific Islands Forum and has regional implications posing a serious environmental hazard to the Pacific region, with concerns regarding the integrity of the concrete dome containing nuclear and toxic wastes on Runit Island;

10. *Commends* the Government of the Marshall Islands for the standing invitation extended to the special procedures of the Human Rights Council, and encourages additional visits to the Marshall Islands;

11. *Requests* the Office of the United Nations High Commissioner for Human Rights to cooperate with the Government of the Marshall Islands in the field of human rights and to provide technical assistance and capacity-building to the National Nuclear Commission of the Marshall Islands in advancing its national strategy for nuclear justice and determining its technical assistance and capacity-building needs to pursue transitional justice in its efforts to address the nuclear legacy;

12. *Also requests* the Office of the High Commissioner to prepare a report on addressing the challenges and barriers to the full realization and enjoyment of the human rights of the people of the Marshall Islands, stemming from the State's nuclear legacy, to be submitted to the Human Rights Council at its fifty-seventh session, to be followed by an enhanced interactive dialogue, with the participation of the National Nuclear Commission of the Marshall Islands;

13. *Further requests* the Office of the High Commissioner, in preparing the above-mentioned report, to seek the views of the Government of the Marshall Islands and its National Nuclear Commission, Member States, relevant United Nations mandate holders, relevant United Nations agencies, funds and programmes, non-governmental organizations and other relevant stakeholders, including civil society and affected communities;

14. *Decides* to remain seized of the matter.
