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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 4th meeting

Held at Headquarters, New York, on Wednesday, 12 June 2013, at 10 a.m.

Chair: Mr. Morejón (Ecuador)

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The meeting was called to order at 10.20 a.m.

Adoption of the agenda

1. *The agenda was adopted.*

Question of Gibraltar (A/AC.109/2013/15)

2. **The Chair** informed the Committee that the delegation of Spain had indicated its wish to participate in the Committee's consideration of the item. He drew attention to the working paper on the question of Gibraltar prepared by the Secretariat (A/AC.109/2013/15).

Hearing of representatives of the Non-Self-Governing Territory

3. *At the invitation of the Chair, Mr. Picardo (Chief Minister, Gibraltar) took a place at the Committee table.*

4. **Mr. Picardo** (Chief Minister, Gibraltar) said that Spain had agreed to the absolute cession of Gibraltar to the United Kingdom under the Treaty of Utrecht. It was clear that that Treaty, signed in 1713, could not be used in 2013 to restrict or curtail the rights of the Gibraltarians to determine their own future, and successive Chief Ministers of Gibraltar had asked the Committee to defend the rights of the people of Gibraltar under modern international law, the Charter of the United Nations and the relevant decolonization resolutions. Spain had repeatedly demonstrated its compulsive blindness to the reality of modern Gibraltar and its refusal to attribute any international legal status to the current inhabitants of Gibraltar, but that position had no place in the modern world. Spain should test its unsustainable political view before the International Court of Justice; if it again refused to do so, the Committee should seek an advisory opinion on the matter through the Fourth Committee, since international law clearly contradicted the Spanish position.

5. The international legal status of Gibraltar had remained unchanged since its inclusion on the list of Non-Self-Governing Territories in 1946, and General Assembly resolution 1514 (XV) was fully applicable to that Territory. As a result, the only options for Gibraltar's decolonization were independence, free association, integration or the tailor-made solution provided for in General Assembly resolution 2625 (XXV). The people of Gibraltar clearly sought to

exercise the fourth option and had accepted the current Constitution in a 2006 referendum. Gibraltar had repeatedly asked the Committee to indicate whether, in its view, that document embodied the fullest possible measure of self-government short of independence, which would allow for the decolonization of Gibraltar and its removal from the list of Non-Self-Governing Territories, subject to a favourable referendum by the people of Gibraltar. The wishes of Gibraltarians must not be ignored or sidelined by the Committee, which existed to serve the interests of Territories such as Gibraltar in accordance with the Charter of the United Nations, democratic principles and the rule of law.

6. The doctrine of the United Nations and the international community was that all peoples had the right to self-determination and that any treaties that interfered with that right were invalid under international law. Gibraltar belonged to the Gibraltarians, and the Government of the United Kingdom would continue to defend their inalienable right to self-determination. However, the Committee must recognize that inescapable reality by helping Gibraltarians to complete the process of self-determination.

7. Spain continued to display considerable hostility towards Gibraltar by invading its territorial waters in violation of international law and challenging its economic model. It was regrettable that Spain had withdrawn from the Forum for Dialogue on Gibraltar, since Gibraltar was keen to work with a Spanish Government that was ready to seize opportunities for mutual human and commercial advantage, in order to bring greater prosperity and stability to the region. Spain should look towards a unified Europe of peaceful peoples and nations working together, where Gibraltarians could determine their own future in accordance with international law. To that end, Gibraltar would work with the Committee to complete its decolonization, but it was vital that the Committee should start proactively defending the rights of the Gibraltarians without further delay.

8. *Mr. Picardo withdrew.*

9. **Mr. Arias** (Observer for Spain) said that the need for progress on decolonization had been emphasized at the recent Caribbean regional seminar on the implementation of the Third International Decade for the Eradication of Colonialism. However, that task was more complex in some Territories because of disputes

concerning the legitimacy of the exercise of sovereignty by the administering Power. Any new formulas for attaining the Committee's objectives must take into account the principles of the United Nations and the resolutions relevant to each case.

10. The Committee must consider, on a case-by-case basis, whether the degree of autonomy attained by a colonized Territory reflected its capacity to govern itself responsibly and independently. Where there was no dispute regarding the rights of another State, the opinion of the population was an important factor in the decolonization process. The administering Powers and the residents of such Territories must initiate a dialogue aimed at dissolving or transforming colonial ties without delay.

11. However, there were cases of "colonialism by consent", in which inhabitants of a Territory forwent their political independence without regard for the Committee's criteria and sometimes at the expense of the legitimate rights of a third party, as in the case of Gibraltar. The United Nations had recognized that that colonial situation undermined the unity and territorial integrity of Spain, and the administering Power itself had acknowledged that the independence of its colony against the will of Spain was not a possibility. Those two factors alone were sufficient reason to demand a negotiated solution. It was unrealistic to believe that his Government would accept the continuing disregard for the legitimate rights of Spain, which were protected under the Treaty of Utrecht and United Nations doctrine.

12. The Committee should be guided by the decolonization mandate of the United Nations. For three decades, the General Assembly had been urging the United Kingdom and Spain to reach a solution through dialogue and the Brussels process. Spain called for the resumption of the bilateral dialogue, which had lapsed as a result of the administering Power's refusal to discuss the future of Gibraltar. Spain was convinced that the two States could find an imaginative solution without neglecting the interests of the residents of the colony.

13. Despite the stalling of the Brussels process, Spain stood ready to engage in regional cooperation with the goal of creating a constructive atmosphere of mutual trust that would benefit Gibraltar and the region as a whole, particularly the Campo de Gibraltar. In 2004, Spain had spearheaded the Forum for Dialogue on

Gibraltar as a cooperation and confidence-building initiative that would pave the way for negotiations on sovereignty. However, progress on the Forum process had been blocked in 2010 as a result of the Gibraltar local government's insistence on using discussions on technical issues and local cooperation to assert its sovereignty claims. The new Government of Spain did not accept that use of a regional cooperation mechanism and had therefore proposed to the United Kingdom a new framework for regional cooperation in which the different issues could be tackled by the competent administrations. Issues of sovereignty and jurisdiction must be resolved through bilateral negotiations between Spain and the administering Power, as called for by the United Nations mandate, which was based on the work of the Special Committee. He therefore urged the Committee not to remove from the list of Non-Self-Governing Territories any Territories that had not been decolonized pursuant to its own criteria.

Hearing of petitioners

14. *At the invitation of the Chair, Mr. Matthews (Self-Determination for Gibraltar Group) took a place at the petitioners' table.*

15. **Mr. Matthews** (Self-Determination for Gibraltar Group) said that Gibraltar belonged to the Gibraltarians and could not be given away by the United Kingdom or taken by Spain. The Gibraltarians had repudiated Spain's claim to their land virtually unanimously and his Group sought recognition of their indisputable, inalienable right to self-determination, in accordance with the United Nations doctrine that applied to all peoples of Non-Self-Governing Territories. The people of Gibraltar should be free to choose their own political future regardless of Spain's claim, which was based on an archaic position that was no longer valid in the modern world. It was totally irrational to suggest that a Territory could be decolonized by applying the principle of territorial integrity unless it was with the democratically expressed consent of the inhabitants. The principle of self-determination was enshrined in the Charter of the United Nations and it would be unethical even to contemplate handing Gibraltar's sovereignty over to anyone against the declared wishes of its people. The Spanish Government's claim to Gibraltar had no merit, since Spain had ceded that Territory in perpetuity under the Treaty of Utrecht. Moreover, its claim had been rejected in two

referendums held in Gibraltar. The Spanish Government's campaign against Gibraltar in the Spanish media and its bullying and harassment were only strengthening the conviction of Gibraltarians.

16. It was deeply disappointing that the Committee appeared unwilling to help Gibraltar progress towards decolonization and had not offered a view on whether Gibraltar's new Constitution decolonized the Territory. The issue of Gibraltar could never be resolved through negotiations between the United Kingdom and Spain, as proposed by the Committee, since the Government of the United Kingdom recognized the Gibraltarians' right to self-determination and would not enter into negotiations with Spain without their consent. He wondered how the people of Gibraltar could elicit a constructive, helpful response from the Committee. He hoped that the Committee would send a visiting mission to Gibraltar as soon as possible so that progress could be made towards decolonization.

17. *Mr. Matthews withdrew.*

18. **The Chair** suggested that the Committee should continue its consideration of the question of Gibraltar at its next session, subject to any directives that the General Assembly might wish to give at its sixty-eighth session.

19. *It was so decided.*

Question of Western Sahara (A/AC.109/2013/1)

20. **Mr. Lasso Mendoza** (Ecuador) reaffirmed his Government's support for the aspiration of the people of Western Sahara to exercise their right to self-determination by means of a referendum, in accordance with the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO). His delegation urged all parties, including neighbouring States, the relevant United Nations bodies and the Personal Envoy of the Secretary-General for Western Sahara, Mr. Christopher Ross, to redouble their efforts to ensure that the referendum in Western Sahara took place, thus allowing the Sahrawi people to exercise their inalienable right to self-determination, pursuant to international law, the Charter of the United Nations and General Assembly resolutions 1514 (XV) and 1541 (XV). It was also crucial to ensure independent, impartial, comprehensive and continuous monitoring of the human rights situation in Western Sahara and in the refugee camps; the Frente Popular para la Liberación de Sagüía el-Hamra y de Rfo de Oro (Frente Polisario)

had previously suggested that that responsibility should be incorporated into the mandate of MINURSO. A prompt solution to the situation in Western Sahara would have a significant impact on wider regional issues, particularly the stability of the Sahel.

21. **Ms. Comesaña Perdomo** (Cuba) said that the people of Western Sahara had the sovereign right to decide their future without being subject to pressure or conditions of any kind. The international community was concerned that the natural resources of Western Sahara were being plundered, in violation of the economic rights of the Sahrawi people. In addition, there were difficulties in meeting the basic humanitarian needs of those living in refugee camps, a situation that had been aggravated by the decline in humanitarian aid from donor countries as a result of the economic crisis. Despite its modest resources, Cuba was contributing to the development of the Sahrawi people, especially in the area of education; by 2012, more than 1,800 Sahrawi students had graduated from Cuban educational institutions. Although the parties to the conflict in Western Sahara had confirmed their commitment to continue talks, no significant progress had been made on the question. It was now a matter of urgency to find a solution to the long-standing conflict that would recognize the right of the Sahrawi people to self-determination.

22. **Ms. Diaz Mendoza** (Bolivarian Republic of Venezuela) said that her Government was firmly committed to the principle of self-determination and had officially recognized the Sahrawi Arab Democratic Republic since 1983. Venezuela reaffirmed its hope for a just and lasting solution to the conflict that would enable the Sahrawi people to exercise their inalienable right to self-determination and would ensure respect for and protection of their human rights. To that end, her delegation called on the Secretary-General and his Personal Envoy to redouble their efforts to find a mutually acceptable political solution that would provide for the self-determination of the people of Western Sahara, in accordance with the purposes and principles of the Charter of the United Nations, General Assembly resolution 1514 (XV) and other relevant resolutions. Lastly, her delegation welcomed the adoption of General Assembly resolution 67/134 and hoped that the peaceful conduct of the referendum, as soon as possible, would enable the Sahrawi people to exercise fully their right to self-determination, including independence, in accordance with that

resolution and other relevant decisions of United Nations bodies.

23. **Mr. Jiménez** (Nicaragua) reiterated his Government's solidarity with the struggle of the Sahrawi people for self-determination and independence, and said it still hoped that the negotiations between the parties — the Sahrawi Arab Democratic Republic and Morocco — would continue without preconditions, so that the people of Western Sahara could exercise their right to self-determination in accordance with General Assembly resolution 1514 (XV). Unfortunately, negotiations on the future status of the Territory had been unsuccessful and, in the meantime, the natural resources of Western Sahara were being colonized, with serious consequences for the sustainable development and economic rights of the Sahrawi people. His delegation was also concerned about the urgent situation faced by refugees, and called upon all donor countries to continue to contribute to that humanitarian effort and upon all parties concerned to monitor and ensure respect for the Sahrawi people's human rights. His country had officially recognized the Sahrawi Arab Democratic Republic since 1979 and would continue to support the struggle of the Sahrawi people for independence and a seat at the United Nations.

Hearing of petitioners

24. *At the invitation of the Chair, Mr. Boukhari (Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente Polisario)) took a place at the petitioners' table.*

25. **Mr. Boukhari** (Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente Polisario)) said that despite more than 40 years of attempts and negotiations, under the auspices of the international community, to resolve the question of Western Sahara, Morocco's rejection of the settlement plan approved by the Security Council and its withdrawal of confidence in the Secretary-General's Personal Envoy had sabotaged efforts to reach a just and lasting solution. The direct negotiations, initiated in 2007, had been deadlocked since 2012, when the so-called autonomy plan proposed by Morocco had foundered. Regrettably, the Security Council had not taken sufficient measures to convince Morocco to meet its obligations, a weakness that continued to feed the hopes of the occupying Power. That situation could damage the Organization's credibility, as the lack of condemnation

could be used by Morocco to justify its perpetuation of the status quo of "no war, no peace", the plunder of the natural resources of Western Sahara and the violation of the Sahrawi people's human rights with impunity, even though such violations had been documented in relevant United Nations and African Union reports and by many international human rights organizations. The tragedy in Western Sahara was unfolding before the eyes of the United Nations in the form of MINURSO, which had been rendered almost completely ineffective by Morocco's intransigence.

26. To ensure that the United Nations was part of the solution to the situation in Western Sahara rather than part of the problem, the Organization should not limit its role in maintaining international peace and security to adopting resolutions that could be ignored by a country whose behaviour had shown time and again that it did not respect the right to self-determination. The Special Committee on decolonization had a clear mandate and should therefore do its utmost to complete the decolonization process in Western Sahara and ensure that the Sahrawi people could exercise their right to self-determination freely and without restrictions. He called on the Committee to carry out, as a matter of urgency, a fact-finding mission in Western Sahara to update the data collected during its last visit to the Territory in 1975. Lastly, the Committee should hold a special session on the question of Western Sahara in order to reaffirm its interest in the matter.

27. *Mr. Boukhari withdrew.*

28. **The Chair** said he took it that the Committee wished to transmit all relevant documents under the agenda item to the General Assembly to facilitate the consideration of the item by the Special Political and Decolonization Committee (Fourth Committee).

29. *It was so decided.*

The meeting rose at 11.40 a.m.