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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 Tuesday, 19 June 2001, at 10.30 a.m.

Chairman: Mr. Tanoh-Boutchoué (Vice-Chairman) (Côte d'Ivoire)

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In the absence of Mr. Hunte (Sierra Leone), Mr. Tanoh-Boutchoué (Côte d'Ivoire), Vice-Chairman, took the Chair.

The meeting was called to order at 10.45 a.m.

Adoption of the agenda

1. The agenda was adopted.

Question of Gibraltar (A/AC.109/2001/10)

2. **The Chairman** said that the delegation of Spain had asked to participate in the Committee's deliberations on the item. He took it that the Committee wished to accede to that request.

3. *At the invitation of the Chairman, Ms. Menéndez (Spain) took a place at the Committee table.*

Hearing of a representative of a Non-Self-Governing Territory

4. **The Chairman** drew attention to the working paper prepared by the Secretariat (A/AC.109/2001/10). He also informed the Committee that he had received a communication from the Chief Minister of Gibraltar requesting permission to address the Committee on the question of Gibraltar. He took it that the Committee wished to accede to that request.

5. It was so decided.

6. **Mr. Caruana** (Chief Minister of Gibraltar) said that since 1992 Gibraltar had deployed many legal and other arguments in support of the exercise of its right to self-determination, notwithstanding the unfounded claims made by Spain. Since 1946, Gibraltar had been one of the Territories on the Committee's list of Non-Self-Governing Territories, and its administering Power, the United Kingdom of Great Britain and Northern Ireland, had reported to the Committee in discharge of its obligations under Article 73 of the Charter of the United Nations. In accordance with the norms of international law and the doctrine of the United Nations, in the decolonization process there was no alternative to the principle of self-determination, which applied to all Non-Self-Governing Territories without exception, including, of course, Gibraltar. Gibraltar had not been a part of Spain for 297 years, and even if the Treaty of Utrecht were still valid, the rights and obligations contained in the United Nations Charter would take precedence over it.

7. Nevertheless, year after year the Committee listened to the same arguments and continued to ignore the wishes of the people of Gibraltar and their desire for decolonization. In a statement to the Committee in 1964, the representative of Iraq had recognized the presence in Gibraltar of local inhabitants, who were neither Spanish nor English, but Gibraltarians. In that respect, their situation was far from unique, but was similar to the situation of many colonial peoples who could not be denied the right to self-determination merely because at some point in the distant past they had migrated to the place which they now called their homeland.

8. Spain's assertion that the inhabitants of Gibraltar were not a colonized people ignored the facts of Spain's own colonial history, particularly in South and Central America, where emigrants from Spain had eventually exercised their right of self-determination in lands to which they were not indigenous. There was a fundamental difference between the issues of decolonization, which concerned the rights and status of the people of a Non-Self-Governing Territory, and territorial disputes over land or territory between two Member States. Those concepts were not interchangeable, nor could one replace the other. The Committee did not deal with territorial disputes but with questions of decolonization, which, in accordance with the doctrine of the United Nations, could be achieved only on the basis of the principle of self-determination.

9. Essentially, Spain's position in relation to Gibraltar was that there were two options: either Gibraltar would remain a British colony forever, or it would be integrated into Spain. Thus, Spain was putting its own selfish interests and territorial ambitions ahead of the decolonization process. That position had been demonstrated recently during the Caribbean Regional Seminar held in Cuba, the conclusions and recommendations of which, at the insistence of the representatives of Spain and Argentina, had made no reference to Gibraltar's position as set forth by its chief minister. That glaring incident was yet another clear example of how some Member States, using their power and influence within the United Nations, were undermining the principles on which the Committee's work was based and the objectives which it sought. If the members of the Committee had any doubt about the right of the people of Gibraltar to self-determination, that question could

be referred to the International Court of Justice; if there was any doubt about the worthiness of the people of Gibraltar to benefit from the right of self-determination, a mission should be sent to the Territory to make an independent assessment of the situation.

10. He had asked the Committee to devise a plan of action for Gibraltar, but even that request had remained unfulfilled. Instead, the Committee had approved the conclusions and recommendations of the 2000 Pacific Regional Seminar, in which Argentina and Spain had managed to insert a statement to the effect that representatives of Non-Self-Governing Territories should not participate in the development of programmes of work for individual Territories where the Territory was the subject of a sovereignty dispute. His request for that statement to be excised from the conclusions and recommendations of the 2001 Caribbean Regional Seminar, held at Havana, had also gone unheeded, again because of the intervention of Argentina and Spain. If the Committee was to successfully complete its work during the Second International Decade for the Eradication of Colonialism, it must break free from the excessive influence of Member States on its work.

11. At the Havana seminar, the representative of Spain had cast doubt on the sincerity of Gibraltar's commitment to decolonization by saying that Gibraltar targeted its criticism only at Spain, and never criticized the United Kingdom, which was the colonial Power. Even if that were true, the reality of the matter was that it was not the United Kingdom, but Spain, which was obstructing the decolonization of Gibraltar. The representative of Spain, echoing the words of the Minister for Foreign Affairs in the Spanish parliament, had said that if the United Kingdom made the slightest alteration to Gibraltar's Constitution, that would have dire consequences for relations between Spain and the United Kingdom.

12. The Government of Gibraltar would welcome a properly structured dialogue with the Government of Spain to attempt to resolve the differences and problems. In that connection, he urged the Committee to make the following recommendations: first, no dialogue should take place between an administering Power and any other Member State about a problem affecting a Non-Self-Governing Territory without the presence and participation, with a separate voice, of the Government of that Territory; and second, dialogue should be conducted between the Governments of the

United Kingdom, Spain and Gibraltar in accordance with the relevant resolutions of the United Nations.

13. **Mr. Stanislaus** (Grenada) said that the statement by the Chief Minister of Gibraltar had been very impassioned; he wondered when the Gibraltarians had last had an opportunity to express their wishes concerning their status in a referendum or in some other way.

14. **Mr. Caruana** (Chief Minister of Gibraltar) said that in 1967 the people of Gibraltar had had an opportunity to hold a referendum, but it had involved a choice between maintenance of the link with the United Kingdom or incorporation into Spain. No other options offering any form of self-determination had been proposed. Gibraltar did not agree that its decolonization options should be limited to incorporation with a State which had territorial designs. The desire to reach agreement with the United Kingdom on constitutional reform which would afford Gibraltar full self-government was therefore an inseparable element of the policy of the Government of Gibraltar and, it was to be hoped, of all political parties of Gibraltar. That question should be put to a referendum, which would then become an act of self-determination.

Hearing of petitioners

15. **The Chairman** recalled that at its third meeting, the Committee had decided to hear the petitioners on the item.

16. *At the invitation of the Chairman, Mr. Bossano (Leader of the Opposition) took a place at the petitioners' table.*

17. **Mr. Bossano** (Leader of the Opposition) said that at the Caribbean Regional Seminar, held in Cuba, the representative of Spain drew an analogy between the military base of the United States of America at Guantanamo and the situation of Gibraltar. Absurd as that analogy was, what was even more significant was that in the 1960s that same example had been used in the Committee by the then Minister for Foreign Affairs of fascist Spain. Unlike Guantanamo, Gibraltar had been included on the list of Non-Self-Governing Territories, whose administering Powers were required to transmit information annually under Article 73 *e* of the Charter so that the progress of the peoples of the Territories towards full self-government could be monitored. When a people attained a full measure of

self-government, that obligation ceased and the Territory was removed from the list.

18. Spain had repeatedly told the Committee that Gibraltar should either remain a British colony forever or be placed under Spanish rule, which it defined as the only way to decolonize Gibraltar and claimed was the Committee's doctrine. If that were indeed the Committee's doctrine, the Committee would be engaged in perpetuating colonialism rather than eradicating it.

19. The negotiating process between the United Kingdom and Spain, which the Committee was continuing to encourage, was not aimed at furthering the attainment of a full measure of self-government by the people of the Territory, but at discussing the terms for resolving a territorial dispute, as if there were no human beings in Gibraltar and no issue of human rights. Paragraph 6 of the Declaration on the granting of independence to colonial countries and peoples stated that any attempt aimed at the disruption of the national unity and the territorial integrity of a country was incompatible with the Charter of the United Nations. However, Gibraltar's attainment of full self-government would not have that effect. If the loss of Gibraltar in 1704 had affected Spain's territorial integrity, Spain itself had legalized that position in 1713 by giving up Gibraltar in perpetuity. In document A/55/497 the Spanish position was set forth as being, with reference to the Treaty of Utrecht, that if the United Kingdom were to dispose of Gibraltar, Spain would have preference to buy it back. Did that mean that Gibraltar was merchandise for sale? Was the language of 1713, when the slave trade was flourishing, appropriate in the new millennium? He wondered how any person could doubt that the rights of the Gibraltarians must be paramount in determining the future of the Territory.

20. Spain believed that Gibraltar had no right to express an opinion about the proposals it had made to the administering Power in 1965, 1985 and 1997. In his statement to the Committee in 2000, he had told the Committee that the United Kingdom had not replied to Spain's 1997 proposals. It seemed that, in 2001, Spain would be receiving the United Kingdom's rejection, which all Gibraltarians welcomed. Whatever criticisms they might have of the United Kingdom with regard to its performance in defending their rights, they had no doubt that the United Kingdom would honour its

pledge not to place Gibraltar under Spanish rule against the wishes of its inhabitants.

21. In 1964, the Parliament of Gibraltar had informed the Special Committee that Gibraltar belonged only to the Gibraltarians and that only if, by an act of self-determination, the people were to choose integration with Spain could Gibraltar be deemed to be decolonized by transferring to Spanish rule. Over the 37 intervening years, Spain had sought to intimidate Gibraltar, but had failed and would continue to fail. Such attempts at intimidation were to be expected of the regime that had ruled Spain in the 1960s, but in the twenty-first century Spain should no longer be pursuing such a policy.

22. In proclaiming the Second International Decade for the Eradication of Colonialism, the General Assembly had stated that it was guided by the fundamental and universal principles enshrined in the Charter, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. He urged the Special Committee also to be guided by those principles. The first event in the Second International Decade had been the recent seminar in Cuba.

23. As was indicated in the Special Committee's own document (A/AC.109/2001/1), the purpose of the seminar had been to assess the situation in the Non-Self-Governing Territories, in particular their constitutional evolution towards self-determination in order to facilitate the development by the Special Committee of a constructive programme of work. He fully subscribed to that view and believed that, in the case of Gibraltar, the Special Committee might engage the Constitutional Committee of Gibraltar in that process. Other Territories represented at the seminar had also supported that view but at the suggestion of Spain, which had nevertheless described the idea as an interesting one requiring further study, it had not been included in the final report. The report on the work of the Cuba seminar had stated that, in order for an acceptable measure of self-government to be obtained, it was essential to address the question of reserved powers in colonial constitutions. In his briefing at the seminar, the Rapporteur of the Special Committee had clearly stated that the Committee considered that the choices as to the future status of listed Territories must take place within a framework that allowed the United Nations to satisfy itself that a free act of self-determination had taken place.

24. He wondered how the Special Committee could achieve that if it did not undertake consideration of Gibraltarian proposals for decolonization as an alternative or, at the least, in parallel to the Brussels talks between the United Kingdom and Spain.

25. The report of the seminar held the previous year in the Marshall Islands had included a paragraph implying that only where no sovereignty dispute existed should the participation of the people of the Territory be ensured. That paragraph had come to the attention of the people of Gibraltar following the Cuba seminar. Even though it was not a recommendation, the very fact that it had found its way into the report had undermined the confidence of Gibraltarians in the commitment of the Special Committee to the protection of their rights as a colonial people.

26. The Special Committee could begin listening to the voice of the Gibraltarians or merely continue, as before, to encourage a discussion over property rights between the United Kingdom and Spain. The second option had not advanced the prospects of Gibraltar's decolonization one iota and he considered that it would not do so in the Second International Decade either.

27. In conclusion, he confirmed the words of the Chief Minister of Gibraltar saying that there was unanimity among the highly varied political tendencies in Gibraltar concerning the need to continue work on a decolonization constitution, which should be the subject of a referendum. In his view, that was a prerequisite for the attainment of self-determination and the United Nations should also be involved in the referendum.

28. **Mr. Stanislaus** (Grenada) said that he had been impressed by the passion with which the representative of the parliamentary opposition of Gibraltar had spoken. At the outset of the Second International Decade for the Eradication of Colonialism, the Committee should develop some new thinking on the subject of self-determination. As the representative of Papua New Guinea had said at the previous meeting, the Special Committee should elaborate its methods of work and act on the basis of them rather than defining them under the pressure of external circumstances.

29. The Grenadian delegation agreed that discussions between the United Kingdom and Spain on the important question of Gibraltar could not be conducted without Gibraltar itself. A dialogue between the administering Power and another Member State

conducted without the independent participation in such dialogue of the Non-Self-Governing Territory was unthinkable. The Chief Minister of Gibraltar and the leader of the opposition had very courteously and diplomatically reminded the Committee of its obligations towards Gibraltar.

30. **Mr. Bossano** (Leader of the Opposition) said that the view had always been taken in Gibraltar that it was important for the representatives of nations that had themselves at one time been British colonies to put themselves in the place of the Gibraltarians. Whatever the United Kingdom and Spain did, the search for a solution consistent with the effort to eradicate colonialism must be conducted only within the framework of relations between the Special Committee and the political leaders and people of Gibraltar.

31. Gibraltar did not, of course, wish, at the end of the Second International Decade, to be the only place where a colonial administration subsisted. That statement did not imply a criticism of what the present members of the Special Committee were doing, but was rather a reflection of disappointment at the lack of progress over the past 37 years.

32. **The Chairman**, speaking as the representative of Côte d'Ivoire, assured the previous speaker that the Special Committee was very mindful of the problems of all the Non-Self-Governing Territories with which it had to deal. As the representative of a country which had been through decolonization, he said that the decolonization process was a complex matter. If it seemed that the Special Committee was not acting with sufficient dispatch, that could be accounted for merely by that complexity and by the fact that, in seeking solutions, it had to take into account the interests of all sides. He asked the previous speaker not to despair; the Committee would not forget Gibraltar and would continue to endeavour to find an acceptable solution.

33. *Mr. Bossano withdrew.*

34. *At the invitation of the Chairman, Mr. Zammit (United Nations Association of Gibraltar) took a place at the petitioners' table.*

35. **Mr. Zammit** (United Nations Association of Gibraltar) stressed that one of the fundamental issues taken up by his association in Gibraltar was the defence of human rights. At the same time, the Association's members, while insisting on the rights of others, were wondering who was protecting the human

rights of Gibraltarians. The Gibraltarian people had always been used politically, with neither the Government of the United Kingdom or the Government of Spain taking into account the moral, social or economic damage they were doing to Gibraltar. In particular, one of the many aspects of the sanctions imposed on Gibraltar by Spain was the lengthy delays at the frontier crossing between Gibraltar and Spain, which delays were controlled by the Spanish Government. Spain was trying to make the Gibraltarians renounce their demand to be recognized as a people. For its part, the administering Power was not fulfilling its obligations under the Charter of the United Nations by not standing up for Gibraltar as it should. Gibraltar itself was unable to defend itself because of its colonial status.

36. Spain's attitude and the United Kingdom's appearance of weakness were creating a climate in which Gibraltar felt left on its own with nobody to look to for help other than the Special Committee, which had been especially created to ensure observance of the Declaration on the Granting of Independence to Colonial Countries and Peoples. The campaign by Spain was not aimed just at Gibraltar's economy but covered every sphere of life there: as an example, very recently the national badminton association had been banned from taking part in an international competition in Seville, Spain. That reaffirmed the need to eliminate serious breaches of obligations under the Charter. Unfortunately, the petitions which Gibraltar had addressed to the United Nations over the previous 37 years had been ignored: each time Gibraltar had been told that the problem must be resolved by the Governments of the United Kingdom and Spain. However, was it not to the Special Committee that the General Assembly had entrusted the task of enabling peoples which turned to it for help to realize their aspirations? That was indeed the task currently facing the Special Committee.

37. The members of the Committee were first and foremost not politicians but representatives of the greatest human rights Organization in the world and must act not to please Spain and the United Kingdom but to defend the interests of Gibraltar and of all those other Territories which were helpless against the super-Powers. That was the true role and function of the Committee. Any Gibraltarian and, of course, any human being under the colonial yoke had the right under the United Nations system to seek support for his

or her right to self-determination. The Gibraltarians were neither English nor Spanish; as a people, they had been in existence longer than the great country in which the United Nations had its Headquarters, and there was no reason why their identity should not be recognized. Nor could it be forgotten that the General Assembly resolution which had been adopted that year, entitled "United Nations Year of Dialogue among Civilizations", talked of promoting and encouraging universal respect for human rights and fundamental freedoms for all. That sounded hypocritical in respect of Spain, and Spain's participation in the Committee's deliberations was totally unjust, and disrespectful towards both the United Nations and the Gibraltarian people. The United Nations must reaffirm its competence and must not dance to the tune of powerful nations and political interests. To fulfil their role, the members of the Committee must visit Gibraltar, meet its people and see at first hand the situation in which that people found itself. In that connection, he invited the Committee to send a delegation to Gibraltar.

38. *Mr. Zammit withdrew.*

39. **Ms. Menéndez** (Spain), noting the important role played by the Committee in the elimination of colonialism in accordance with the provisions of General Assembly resolution 1514 (XV) of 14 December 1960, said that her Government was nevertheless disappointed that, at the beginning of the Second International Decade for the Eradication of Colonialism, colonial Territories continued to exist in the world, one of them being Gibraltar.

40. Regaining sovereignty over Gibraltar was an objective that Spain would never relinquish. Decolonization was a complex process: no two situations were alike, and equally there was no single universal solution. As for Gibraltar, it was a colony established by one State in the territory of another, and, in contrast to the majority of Territories, there was a conflict over sovereignty between two States: the United Kingdom, the colonial Power, and Spain, in whose territory the colony was established. However, there were three principles that had long formed a basis for the settlement of the dispute concerning sovereignty over Gibraltar. First, the United Kingdom must put an end to its colonial presence in Gibraltar in accordance with the provisions of General Assembly resolution 2429 (XXIII) of 18 December 1968. Second, the decolonization of Gibraltar must be carried out in strict compliance with the principle of territorial

integrity, not the principle of self-determination, as laid down in the provisions of resolutions 1514 (XV), 2353 (XXII) of 19 December 1967, 2429 (XXIII) of 18 December 1968 and 2625 (XXV) of 24 October 1970. Third, the question of Gibraltar must be resolved through negotiations between Spain and the United Kingdom.

41. Proceeding from those principles, the General Assembly had since 1973 urged the United Kingdom and Spain to conduct bilateral negotiations with a view to the final solution to the problem. In the past, representatives of Gibraltar had participated in such negotiations as part of the United Kingdom delegation but had then decided to withdraw, thereby distancing themselves from that process. Regrettably, despite the commitments entered into by both sides, the negotiations had not borne fruit thus far. Her Government remained ready to cooperate with the Committee with a view to achieving a world free of colonialism and to continue the dialogue and negotiations with the United Kingdom to discuss ways of settling the dispute.

42. Lastly, she noted with regret that one of the petitioners had taken the liberty of making a grave attack on a State Member of the United Nations, making entirely baseless accusations concerning human rights when, in fact, her Government attached paramount importance to their observance and promotion. She cited, in that connection, an excerpt from the statement by the Minister for Foreign Affairs of Spain, reproduced in paragraph 22 of document A/AC.109/2001/10.

43. **Mr. Donigi** (Papua New Guinea) requested that the Committee should defer consideration of the question of Gibraltar to a later date, since he was currently completing a document dealing with the problem of decolonization as a whole and the situation in the Territories in particular, including the situation in Gibraltar. He intended to submit the document for consideration by the members of the Committee.

44. **The Chairman** said that, if he heard no objection, he would take it that the Committee wished to grant that request.

45. *It was so decided.*

Question of Western Sahara (A/AC.109/2001/12)

46. **Mr. Donigi** (Papua New Guinea) said that, according to the representative of the Russian Federation, the Security Council also intended to consider the question of Western Sahara and was awaiting the submission of the relevant report of the Secretary-General. If that was the case, it would be advisable to postpone consideration of that item until the report of the Secretary-General had been submitted to the Security Council. He sought clarification in that regard from the representative of the Secretariat.

47. **Mr. Sattar** (Secretary of the Committee) said that the issuance of the report in question had been delayed. The representative of the Frente POLISARIO had asked to make a statement to the Committee after the distribution of the report but, taking into account the delay in its issuance, he was prepared to speak at the Committee's next meeting.

48. **The Chairman** said that, as he understood it, the Committee would continue its consideration of the question at one of its forthcoming meetings.

The meeting rose at 12.30 p.m.