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Held at Headquarters, New York, on Wednesday, 8 October 2003, at 3 p.m.

Chairman: Mr. Loedel (Uruguay)
Later: Mr. Cole (Rapporteur) (Ireland)

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The meeting was called to order at 3.25 p.m.

Agenda item 19: Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (Territories not covered under other agenda items) (*continued*) (A/58/23 (part II), chaps. VIII-X, A/58/23 (part III), chap. XII (sects. D-F), A/58/171; aide-memoire 1/03)

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Agenda item 12: Report of the Economic and Social Council (*continued*) (A/58/23 (part II), chap. VI, A/58/23 (part III), chap. XII (sect. C), A/58/66; A/C.4/58/CRP.1)

Agenda item 90: Offers by Member States of study and training facilities for inhabitants of Non-Self-Governing Territories (*continued*) (A/58/71)

1. **Mr. Al-Zayani** (Bahrain) said that a review of the history of colonial peoples during the first half of the twentieth century and the last decades of the preceding century necessarily led one to consider the role played by the United Nations in combating colonialism and the hegemony exercised by the colonizing countries. The United Nations had joined its efforts to those of the colonial countries to help them to achieve independence and self-determination. Most of those countries were now States Members of the United Nations and they occupied the place that was their due in the concert of nations.

2. In its action against colonialism, the United Nations had adopted various texts, including the Millennium Declaration, in which Heads of State or Government had pledged to support all efforts aimed at promoting equality among States in terms of their right to sovereignty and the right of their people to independence and self-determination, and General Assembly resolution 55/146, by which the General Assembly had proclaimed the second International Decade for the Eradication of Colonialism (2001-2010). The goal of the Decade was to eliminate colonialism from the planet in accordance with the principles set forth in the Charter of the United Nations, in which the peoples of the entire world had committed themselves to promoting human rights and equality between the sexes, preserving human dignity and values, protecting the rights of all countries and working to promote social well-being and the improvement of living conditions in a climate of freedom.

3. Convinced that colonialism impeded the development of international economic cooperation and the social, cultural and economic development of dependent peoples, the General Assembly had, at its fifteenth session adopted the Declaration on the Granting of Independence to Colonial Countries and Peoples (resolution 1514 (XV)), in which it had solemnly proclaimed the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations and had further declared that all States should observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the Declaration itself on the basis of equality, non-interference in the internal affairs of States and respect for the sovereign rights of all peoples and their territorial integrity.

4. Although the first International Decade (1990-2000) had not achieved its goal, namely, to rid the world of colonialism, it had been an important element in the Organization's efforts to that end. In 1961, the United Nations had established the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, which could be proud of all that it had accomplished in recent decades.

5. There was no doubt that the United Nations had done its utmost to eradicate colonialism, as evidenced by the Declaration, the programme of action for the full

implementation of the Declaration adopted on the occasion of the tenth anniversary of the Declaration, the plan of action for the full implementation of the Declaration, resolution 45/33 adopted on the thirtieth anniversary of the Declaration, and resolution 55/146. In those texts, the General Assembly had reaffirmed the need to take the necessary steps in order to achieve the complete and speedy elimination of colonialism and to enable colonial countries and peoples to attain independence.

6. **Mr. Chaudhry** (Pakistan) said that, despite the Organization's impressive achievements in the area of decolonization, there were still 16 Non-Self-Governing Territories awaiting decolonization. Accordingly, the General Assembly had declared a Second International Decade for the Eradication of Colonialism. His delegation supported the work of the Special Committee, as well as all regional initiatives aimed at furthering the decolonization agenda. In particular it welcomed the convening of the Caribbean Regional Seminar on Advancing the Decolonization Process in the Caribbean and Bermuda, held in Anguilla, a Non-Self-Governing Territory, in May 2003. The administering Powers had a special responsibility for building the self-governing capacities of the Non-Self-Governing Territories; he therefore echoed the Committee's appeals to those Powers to facilitate the early decolonization of the Territories, taking into consideration their particular situations and characteristics.

7. The decolonization agenda was not, however, limited to the issue of the Non-Self-Governing Territories. It also involved ensuring that all peoples under colonial administration or foreign occupation were allowed to exercise their inalienable right to self-determination, a principle which was set forth in the Charter of the United Nations and which formed the basis for the Declaration on the Granting of Independence to Colonial Countries and Peoples. Even after independence, colonialism had left a bitter legacy of foreign occupation, conflict and violent confrontation in two regions of the world. For over half a century the peoples of Kashmir and Palestine had endured foreign military occupation and had been denied the exercise of their right to self-determination. The work of the Committee and, indeed, the decolonization agenda of the United Nations would be incomplete without a resolution of those two issues.

8. With regard to the dispute regarding Jammu and Kashmir, for over half a century, the Kashmiri people had been denied their right to self-determination and one party to the conflict continued to violate international law by refusing to implement the resolutions of the Security Council and consistently violated the human rights of the people of Kashmir. Jammu and Kashmir, which had justifiably been called the most dangerous place on earth, deserved a just and lasting solution. His Government had consistently offered to engage in a meaningful dialogue to find a solution to the dispute over Kashmir which would be acceptable to both parties and, above all, to the Kashmiri people. During the general debate in the General Assembly during the current session, President Musharraf had proposed a ceasefire along the line of control. His Government was also willing to work on further reciprocal measures of restraint and confidence-building and had called for an expansion of the United Nations Military Observer Group in Pakistan (UNMOGIP) to monitor the ceasefire and any movement across the line of control. It had made those offers in good faith and in the interest of peace in South Asia, since it remained committed to a final settlement of the Kashmir dispute in accordance with the wishes of the people of Kashmir and the relevant resolutions of the Security Council. The other side must reciprocate if it was really interested in regional peace and a settlement of the dispute over Kashmir.

9. **Mr. Oyarzún** (Spain) said that, in accordance with the decision taken by the General Assembly at its fifty-seventh session with regard to the question of Gibraltar, the Spanish and United Kingdom Governments had initiated contacts at various levels over the past year.

10. In June 2003, the Deputy Chief Minister of Gibraltar had expressly invited the Special Committee to send a visiting mission to Gibraltar and a petition of support for such a mission had received many signatures in Gibraltar. The Government of Gibraltar was thereby attempting to garner implicit or explicit support for its opposition to the principle of territorial integrity traditionally recognized by the Organization and international law. It was also attempting to obtain recognition for the referendum held in Gibraltar on 7 November 2002 which, as was well known, was neither valid nor legally binding and had not been recognized by the administering Power, the United Kingdom. He pointed out that, in cases involving disputes relating to

sovereignty, as was the case in Gibraltar, the sending of a visiting mission of the Special Committee must be approved not only by the administering Power but also by the other party to the dispute. In that connection, he stressed that Spain was opposed to a visiting mission to Gibraltar. In conclusion, he reiterated his Government's desire to continue constructive negotiations between Spain and the United Kingdom on the issue of Gibraltar with a view to achieving, as soon as possible, a satisfactory comprehensive agreement which would respect the legitimate interests of the inhabitants of the Non-Self-Governing Territory and also hold out the promise of a better future.

Agenda item 19: Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (Territories not included under other agenda items) (continued)

Hearing of representatives of Non-Self-Governing Territories

Question of Gibraltar

11. *At the invitation of the Chairman, Mr. Caruana (Chief Minister of Gibraltar) took a place at the table.*

12. **Mr. Caruana** (Chief Minister of Gibraltar) said that every year the General Assembly, on the recommendation of the Fourth Committee, adopted a consensus resolution on the question of Gibraltar, of which he quoted the main provisions. Each year since 1992, his Government had underscored that those resolutions basically reflected the "consensus" agreed between the United Kingdom and Spain, but did not recognize the colonial status of the people of Gibraltar or their inalienable right to self-determination. The resolutions appeared to treat the question of Gibraltar as if it were a dispute over territorial sovereignty between the United Kingdom and Spain rather than an issue of decolonization, despite the inclusion of Gibraltar in the list of Non-Self-Governing Territories. It was important to emphasize the difference between a dispute over sovereignty and a question of decolonization, which involved very different international legal and political principles.

13. He called for an end to bilateralism between the United Kingdom and Spain in determining Gibraltar's future, which could only be decided by its people. For Gibraltar, the issue was one of decolonization and the applicable principle was self-determination. For Spain,

the issue was one of territorial sovereignty, which would allow it to apply the principle of territorial integrity to the decolonization process. For the United Kingdom, the applicable principle was self-determination but, inexplicably, it was engaged in bilateral negotiations with Spain over the territorial sovereignty of Gibraltar; that was wholly incompatible with the principle of self-determination.

14. He welcomed the fact that no reference had been made to Gibraltar in the statement made by the representative of Spain to the General Assembly at its current session. The previous year, however, the Minister for Foreign Affairs of Spain had spoken of applying the principle of territorial integrity to the settlement of the question of Gibraltar. Yet Gibraltar was a colony and according to current United Nations doctrine on decolonization, there was no alternative to the principle of self-determination. Furthermore, General Assembly resolution 2625 (XXV) of 24 October 1970 made it clear that the principle of territorial integrity did not apply to decolonization situations if the Territory was a colony and was not currently a part of a Member State, which was the case with Gibraltar. The applicable principle in the case of Gibraltar was the freely expressed will of the peoples concerned.

15. Since there was no agreement between the three parties as to the principle applicable to the problem, he suggested that it might be possible to break the deadlock by appealing to the International Court of Justice to issue an advisory opinion on the matter. However, Spain rejected that solution, which would prevent it from systematically distorting the applicable principles of international law for political purposes. It was in that same spirit, and in order to maintain its position, that Spain opposed the sending of a visiting mission. The Parliament of Gibraltar, on the other hand, had unanimously adopted a resolution asking the Special Committee to visit Gibraltar.

16. Furthermore, in July 2003 the Council of Representative Bodies of Gibraltar had launched a petition that also asked the Special Committee to send a visiting mission to Gibraltar so that it could see for itself the economic, social, political and cultural realities of the Territory and the unique and separate identity of its people; assess the capacity of the people of Gibraltar to exercise their right to self-determination; and determine their wishes and aspirations with regard to the political future of their

homeland. The petition had been signed by almost 80 per cent of Gibraltar's electorate. The sending of a visiting mission to a Non-Self-Governing Territory was a matter for the Special Committee, the Territory, and the administering Power. Since the United Kingdom Government had stated that it would raise no objection to such a visit, he urged the Fourth Committee to ask the Special Committee to visit Gibraltar.

17. With respect to the principle of the sharing of sovereignty over Gibraltar by the United Kingdom and Spain, he wished to reaffirm that it was utterly unacceptable to the people of Gibraltar, who saw it as a way to perpetuate the colonization of their Territory and, what was more, by two Powers instead of one. Despite strong opposition from the Governments of Spain and the United Kingdom, a referendum had been held on 7 November 2002 on the question of whether the population of Gibraltar approved of the principle of the sharing of sovereignty over Gibraltar by the United Kingdom and Spain. Some 90 per cent of the electorate had taken part in the referendum, and 99 per cent of those voters had said "no". Continued negotiations between the United Kingdom and Spain concerning any transfer of sovereignty would therefore be devoid of any political or democratic legitimacy. The people of Gibraltar were resolutely opposed to the principle of joint sovereignty. Sovereignty over their country was indivisible and could not be shared by the administering Power and a neighbouring State to suit the military interests of one and the territorial ambitions of the other, while ignoring the inalienable right of the people to self-determination.

18. He therefore repeated his request that the Committee should modify the consensus resolution that it adopted every year, in order to reflect the colonial situation and the primacy of the wishes of the people of Gibraltar; that it should refer the case to the International Court of Justice; and that it should authorize the Special Committee to visit Gibraltar.

19. *Mr. Caruana withdrew.*

20. **Mr. Stanislaus** (Grenada), referring to Mr. Caruana's invitation to the Special Committee to send a mission to Gibraltar, said he wondered what might prevent the Special Committee from accepting the invitation, since the administering Power was not opposed to the idea.

Hearing of petitioners (A/C.4/58/2, A/C.4/58/3 and Add.1, A/C.4/58/4 and Add.1-9)

Question of Gibraltar

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

22. **Mr. Bossano** (Leader of the Parliamentary Opposition of Gibraltar), said that, in November 2002, at a referendum organized by the Parliament of the Territory, the people of Gibraltar had overwhelmingly rejected the sharing of sovereignty over the Territory proposed by Spain and the United Kingdom in the framework of an agreement. It was clear that that decision removed any legitimacy from the sharing of sovereignty.

23. On the occasion of another referendum organized in 1967 by the United Kingdom, the people of Gibraltar had overwhelmingly rejected the proposal of the administering Power that it should share its sovereignty over the Territory with Spain. However, the General Assembly — on the recommendation of the Committee, which had allowed itself to be persuaded by Spain — had chosen to ignore the outcome of the referendum, affirming in a draft resolution which it had adopted in December of that year that the holding of the referendum had been in contravention of its previous resolutions on Gibraltar.

24. Ever since the question had first been included in its agenda, 40 years before, the Committee had never opposed the colonial designs of Spain and the United Kingdom, and had never defended the right of the people of Gibraltar to self-determination. Since 1985, in particular, when the United Kingdom had agreed to enter into negotiations with Spain, the Committee had been content simply to adopt resolutions by consensus every year, calling for the two countries to reach a negotiated settlement of the question of Gibraltar, and deliberately ignoring the fact that the people of Gibraltar wished to exercise their right to self-determination and were opposed to any transfer of sovereignty. As the two aforementioned referendums had clearly demonstrated, the people of Gibraltar were resolutely determined to take their destiny into their own hands, and would allow neither Spain, nor the United Kingdom, nor the Fourth Committee to deprive them of their rights.

25. In 1967 Spain had requested U Thant, then the United Nations Secretary-General, to ask the United Kingdom to enter into negotiations with it. The people of Gibraltar now called upon the current Secretary-General, Mr. Kofi Annan, to urge Spain and the United Kingdom to honour the Charter of the United Nations and allow the Territory to exercise its right to self-determination.

26. *Mr. Bossano withdrew.*

27. *At the invitation of the Chairman, Mr. Feetham (Leader of the Gibraltar Labour Party) took a place at the petitioners' table.*

28. **Mr. Feetham** (Leader of the Gibraltar Labour Party) said that over the past 30 years, the elected leaders of the people of Gibraltar had repeatedly appeared as petitioners before the Committee to defend their right to self-determination. They had been consistent and unequivocal but continued to be denied the right to self-determination.

29. During the Second International Decade for the Eradication of Colonialism, which had begun two years earlier, the struggle to eradicate colonialism must continue with renewed vigour, not in those Non-Self-Governing Territories where the right to self-determination was not disputed by the administering Power, but in Territories like Gibraltar, where the right to self-determination was resisted by the administering Power or by a third country which claimed the Territory for its own.

30. The effect of the consensus resolution adopted every year by the Committee was to perpetuate colonialism in Gibraltar. It gave Spain a virtual veto over the decolonization of the Territory. It also allowed the United Kingdom to pay lip service to the right of the people of Gibraltar to self-determination while maintaining that that right must be exercised in accordance with the United Kingdom's international obligations, including those arising out of the Treaty of Utrecht.

31. The Committee was aware that Article 103 of the Charter of the United Nations clearly stated that in the event of a conflict between the obligations of Members under the Charter and their obligations under any other international agreement, the Charter should prevail. By continuing to adopt the annual consensus resolutions on Gibraltar, the Committee was just as responsible for denying the people of Gibraltar their right to self-

determination as were Spain and the United Kingdom, which were continuing negotiations on joint sovereignty over the Territory. If those negotiations succeeded, Gibraltar would find itself under the domination of not one but two colonial Powers. The language of the resolution adopted each year by the Fourth Committee was rooted in the past, especially in the light of the decision of the European Court of Human Rights in 1999, which had recognized the right of the population of Gibraltar to vote in elections for the European Parliament.

32. The Government of Gibraltar had requested the Special Committee to send a visiting mission to Gibraltar. The request had the full support of the Gibraltar Legislature, all the political parties and the people of Gibraltar. Such a mission was of prime importance, because it would provide the Special Committee with an opportunity to see for itself the preparedness of the people of Gibraltar for self-determination and the strength of their democratic institutions. The Committee should therefore recommend that the Special Committee should respond favourably to that request.

33. *Mr. Feetham withdrew.*

Questions of American Samoa, Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Guam, Montserrat, Pitcairn, Saint Helena, the Turks and Caicos Islands and the United States Virgin Islands

Cayman Islands

34. *At the invitation of the Chairman, Ms. Harris (President-Elect of the Cayman Islands Chamber of Commerce), took a place at the petitioners' table.*

35. **Ms. Harris** (President-Elect of the Cayman Islands Chamber of Commerce) said that the high standard of living in the Cayman Islands, one of the highest in the world, and its vigorous economy and social harmony made it difficult to think of the Cayman Islands as a Territory still under colonial domination. It had only been after the visit to the Cayman Islands of the Chairman of the Special Committee on decolonization in May 2003, that the population had heard of the United Kingdom's international obligation to provide information about its right to self-determination. The administering Power's failure to fulfil that obligation had caused many to question the validity of the draft constitution prepared by the

Constitutional Review Commission, certain provisions of which clearly bore the mark of the United Kingdom Government and were in direct opposition to the will of the people.

36. In the Cayman Islands, the Governor, who was appointed by the United Kingdom Government, had wide-ranging powers, in particular the power to appoint the Attorney General. As a result, relations between the United Kingdom Government and the Government of the Cayman Islands had become increasingly strained. For example, earlier in 2003, when the United Kingdom Government had required the Islands to implement a new European Union tax directive, the Government of the Cayman Islands, fearing that that directive would severely impact the Islands' financial industry and was designed to protect the London bond market to the detriment of the Islands, had decided to appeal to the European Court of Justice. Although the Court had ruled in first instance that it had no jurisdiction to consider the substance of the matter, it had recognized the Islands' right to require that the consequences of the application of such directives on its financial industry should be the subject of consultations between the two parties. The United Kingdom did not seem to be prepared to heed that opinion of the European Court.

37. Another matter, which had come to light early in 2003 was even more revealing. The Government of the United Kingdom, through its intelligence services, had planted moles in the banking industry and in the Financial Reporting Unit, which had been restructured by the Attorney-General to fall directly under the responsibility of his office. The financial industry had called for the resignation of the then Attorney-General and the Government of the Cayman Islands had refused to sit in the Legislative Assembly with the Attorney-General, who, under the Constitution, was a member of the Executive Council.

38. Regrettably, the situation had been exacerbated by the fact that 2004 was an election year in the Cayman Islands, with the United Kingdom protesting that it had no full understanding of the meaning of self-determination as defined by the United Nations and suggesting that General Assembly resolution 1514 (XV) had somehow lapsed. For the people of the Islands, the road ahead was clear: they must have the opportunity to fully educate themselves on self-determination to ensure that they were not being cheated of their right to determine their own future.

The support of the Committee and the Special Committee was indispensable in that connection, and support from other Non-Self-Governing Territories within the framework of a general working party of the Territories established by the United Nations, would also be most welcome.

39. She encouraged the United Kingdom to work with the people of the Cayman Islands to educate them about their right to self-determination and to organize a referendum on the question in order to determine whether the amendments to the Constitution were in keeping with the wishes of the people.

40. *Ms. Harris withdrew.*

41. *Mr. Cole (Ireland) (Rapporteur), took the Chair.*

Question of Western Sahara

42. *At the invitation of the Chairman, Mr. Said (Frente POLISARIO) took a place at the petitioners' table.*

43. **Mr. Said** (Frente POLISARIO) said that, after a long period of Spanish colonial rule ending in 1975, the Saharan people had been forced to conduct a new fight for national independence when Morocco, in a direct challenge to international law, had invaded its territory and placed it under an occupation that continued to the present day.

44. The hopes that the Settlement Plan approved by the Security Council in 1991 and accepted by Morocco had raised for a peaceful resolution to the conflict by means of a referendum had been frustrated.

45. The years of arduous work by the United Nations Mission for the Referendum in Western Sahara (MINURSO) and the enormous financial resources invested by the international community had all been in vain. The Secretary-General and his Personal Envoy had nevertheless continued their mediation efforts, culminating, in 2003, in the presentation to the Security Council of a peace plan for the self-determination of the people of Western Sahara. The plan provided for a five-year transitional period, at the end of which the United Nations would hold a referendum to allow the Saharan people freely to choose their own destiny, by opting either for national independence or for integration with Morocco. The Frente POLISARIO had accepted the plan, motivated by a sincere desire to give peace a new chance and to facilitate the return of stability and harmony to the

region. Morocco had opposed it and was telling anyone willing to listen to it that Western Sahara was a Territory that had belonged to it before it had been colonized by Spain in 1884.

46. It was important to recall that, at the request of the General Assembly, the International Court of Justice had handed down an advisory opinion on 16 October 1975, denying the existence of any tie of territorial sovereignty between the Kingdom of Morocco and Western Sahara and affirming that nothing should prevent the United Nations from implementing the principle of self-determination for the people of Western Sahara. The Court's opinion had been reaffirmed by the United Nations Office of Legal Affairs, on 29 January 2002, after its opinion had been sought by the Security Council. As had happened with the Settlement Plan of 1990-1991, Morocco was refusing to cooperate with the United Nations and continued to reject any solution to the conflict that was based on the principle of self-determination.

47. In his report to the Security Council dated 23 May 2003 (S/2003/565), the Secretary-General had clearly pointed out that Morocco's position was untenable, because its main objection to the peace plan seemed to be that in the referendum to determine the final status of Western Sahara, one of the ballot choices was independence. However, independence was also one of the ballot choices under the Settlement Plan which Morocco had accepted. The Secretary-General had rejected Morocco's objection, taking the view that it was difficult to envision a political solution that, as required by Security Council resolution 1429 (2002), provided for self-determination, but nevertheless precluded the possibility of independence as one of several ballot questions. The Frente POLISARIO had fulfilled all its commitments, but the referendum remained a mirage because of Morocco's failure to meet its obligations.

48. While the Frente POLISARIO had made humanitarian gestures with the aim of establishing a climate of détente, by releasing several hundred Moroccan prisoners of war, the whereabouts of hundreds of Saharan civilians and military personnel captured by Morocco remained unknown. The Saharan people continued to suffer from the daily consequences of a brutal occupation. The country had been divided into two by a wall that was a thousand times more sinister than the Berlin Wall and that was surrounded by wire fences, mines and more than 120,000 soldiers.

The country's natural resources were being plundered by the occupying Power in full view of the United Nations Mission.

49. The fact that, since 1992, the United Nations had been unable to organize the referendum, because of obstruction by Morocco and the fact that it maintained its presence in Western Sahara to monitor an ephemeral ceasefire had only damaged its credibility. The occupying Power had exploited and abused that presence in order to maintain indefinitely, under the protection of the "Blue Helmets", the status quo of an illegal occupation.

50. The United Nations should resolutely resume the decolonization process in Western Sahara and bring it to its conclusion. It could succeed, as it had done in Timor-Leste. The Frente POLISARIO was convinced that a just and lasting settlement to that question would strengthen stability in the region, as well as the economic development of all its peoples, particularly the Saharan people and the Moroccan people.

51. *Mr. Said withdrew.*

52. *At the invitation of the Chairman, Mr. Ortiz (Secretary of the Spanish National Federation of Institutions working in Solidarity with the Saharawi People) took a place at the petitioners' table.*

53. **Mr. Ortiz** (Secretary of the Spanish National Federation of Institutions working in Solidarity with the Saharawi People) said that, for the Federation that he represented, the problem of Western Sahara was undoubtedly a problem of decolonization. All the resolutions that the General Assembly had adopted since the end of the 1960s had reaffirmed the need to decolonize that territory on the basis of respect for the right of the Saharan people to self-determination and independence. That right had been confirmed by the advisory opinion delivered by the International Court of Justice on 16 October 1975, which was still valid. However, the Saharan people had been prevented from exercising that right by the illegal occupation of the Territory in 1975, which the Government of Spain, the old colonial Power, had facilitated.

54. The armed conflict that had raged between the Frente POLISARIO and the Kingdom of Morocco from 1975 to 1990 had not resolved the problem, any more than the deaths of thousands of innocent people, the suffering of hundreds of thousands of older persons, women and children and the billions of dollars that had

been spent so far. Convinced that a just and lasting solution to the conflict could only be reached through dialogue and negotiations, in June 1990 and in April 1991, the Security Council had adopted resolutions 658 (1990) and 690 (1991) respectively, which provided for the holding of a referendum in January 1992, with the consent of the Kingdom of Morocco and the Frente POLISARIO, and with the United Nations being directly responsible for organizing it and for ensuring fair play and for deploying MINURSO to guarantee all the requisite preparations. However, more than 10 years had elapsed and the problem had yet to be resolved. Not even the appointment, in 1997, of a Personal Envoy of the Secretary-General for Western Sahara had overcome the obstacles erected by the Moroccan side to prevent the holding of the referendum. Even after it had approved the Settlement Plan, the Houston Accords and the new Baker plan, the Kingdom of Morocco lacked the political will to respect their provisions. Those continual obstacles, provocations and breaches of the agreements by the Kingdom of Morocco had led the United States representative, in 1994, to accuse the Government of Morocco of behaving like “gangsters”.

55. The King of Morocco, the Prime Minister of his Government and the senior members of the Moroccan administration repeatedly stated that they would accept only a referendum guaranteeing Moroccan rule over the Sahara. The Moroccan Government was exercising brutal repression in the occupied areas and committing constant violations of human rights and fundamental freedoms, arbitrary arrests and torture with impunity. The atmosphere of repression and terror was likely to end in a bloodbath, as had happened four years earlier in East Timor.

56. The problem was not a technical but a political one. It was caused by the reluctance of the Moroccan side to agree to the holding of a referendum on self-determination in Western Sahara with all the necessary democratic guarantees.

57. The United Nations was at a crossroads: it could either persuade the Moroccan Government to comply with the peace plan, or it could accept its failure and withdraw, with the resulting loss of confidence and credibility on the part of the international community and the obvious danger of a return to armed conflict and the situation which had prevailed a decade earlier. The peace and security of the whole of North-West Africa were at stake.

58. The only stable and lasting solution to the conflict would be to give the Saharan people, who had suffered so much, the opportunity to live in peace, freedom and dignity and to decide their own future through a referendum. If that had been possible in Namibia and more recently in East Timor, there was no reason why it could not also happen in Western Sahara.

59. *Mr. Ortiz withdrew.*

60. *At the invitation of the Chairman, Mr. Briones (International Association of Jurists for Western Sahara) took a place at the petitioners' table.*

61. **Mr. Briones** (International Association of Jurists for Western Sahara) said that, in August 2003, the Foundation France Libertés had published a so-called report about the conditions of detention of Moroccan prisoners of war detained in Tindouf (Algeria) following an international mission of investigation. The report denounced cases of death, torture and mutilation, interrogation, summary executions and forced labour, as well as inhuman conditions of detention and problems relating to food and health. It was based exclusively on the testimony of Moroccan prisoners, considered by France Libertés as objective fact requiring no corroboration from Saharan or other sources. That testimony was therefore merely a collection of gratuitous accusations, since France Libertés had not taken the trouble to investigate further. Although the mission considered itself to be an inquiry, the report was in fact simply intended to discredit the Saharan cause and worsen the situation of the refugee populations. In June 2003, a Moroccan court in El Ayoun had dissolved an international non-governmental organization named Forum Truth and Justice, Section Sahara, dedicated to the defence of human rights in Western Sahara, claiming that it incited young people in the Saharan provinces to commit crimes and subversive acts. The dissolution had resulted in the closing of the organization's offices and the confiscation of its funds. The purpose of the Moroccan Government had been to isolate the Saharan people from the outside world, depriving it of the assistance it had been receiving from that organization.

62. In early 2003, Amnesty International had denounced the situation of human rights in the occupied zones and the violations of the fundamental rights of Saharan citizens. In another recent development, the Moroccan Government had camouflaged as a transfer the deportation of some 50

teachers who were members of human rights groups, who had been exercising their profession in certain towns in Western Sahara. The deportation had been a flagrant violation of the regulations of the Ministry of Education concerning the transfer of teaching staff.

63. A few days earlier, 11 young Saharans had managed to escape from Western Sahara, crossing the "Wall of Shame" and arriving at refugee camps. They had done so because they could no longer tolerate the repression to which they had been subjected for having participated in a peaceful demonstration for the respect of human rights in Western Sahara.

64. All those violations and vexations were part of a deliberate policy on the part of the Moroccan authorities to suppress the aspirations of the Saharan people, who should be allowed to exercise their right to self-determination with the guarantee of the Security Council.

65. *Mr. Briones withdrew.*

66. *At the invitation of the Chairman, Ms. Teuwen (Oxfam Solidarity) took a place at the petitioners' table.*

67. **Ms. Teuwen** (Oxfam Solidarity), after having described the humanitarian situation in the Saharan refugee camps near Tindouf and the living conditions of the population living in the territory controlled by the Frente POLISARIO, drew attention to the connection between the humanitarian situation of the refugees, international law and United Nations resolutions. Food aid in those areas was provided by two bodies, the World Food Programme (WFP) and the European Commission Humanitarian Aid Office. The involvement of WFP dated back to 1986, and that of the Office to 1993. Assistance had initially been intended for 80,000 refugees but, following a census which had been adjusted and approved by the Office of the United Nations High Commissioner for Refugees (UNHCR) in the spring of 2000 in preparation for the possible return of the refugees, the figure had risen to 155,430. All international donors had therefore agreed to work on the basis of that figure. However, the food situation had always been very precarious, in the first place because WFP, which was responsible for providing the five basic food commodities (cereals, pulses, oil, sugar and salt), often shipped them at least three months late or even ran out of stocks. Cereals and pulses were procured through a competitive-bidding process which was subject to the lowest-bidder rule;

that led to the constant purchase of products of a lower nutritional value and of food which lacked variety. For its part, the Office had always chosen to make up the shortages, sometimes by providing cereals and pulses, but mostly by introducing variety into the selection of foodstuffs.

68. For a number of reasons, the Office was considering proposing to the European Commission in October 2003 that it should hand over almost its entire budget to WFP, in order to enable the latter to fulfil its mandate and provide some variety in cereals and pulses. In the light of current stocks and expected deliveries, the bridging period in early 2004 would be very difficult unless the Office and the Programme intervened immediately. Bilateral aid from Algeria, Spain and Belgium had always served to compensate for temporary shortages, but could not resolve the current food situation.

69. After 28 years of exile, the Saharan refugees could take no more. They were finding it more and more difficult to survive in a region where they could produce nothing without outside support. As a result, children aged 13 to 15 lagged behind in their development and their schooling; women suffered from anaemia, and in general the refugees were prone to physical and psychological disorders.

70. Meanwhile, the Saharan people were still denied their right to self-determination. If the international community did not become more committed to the process and did not do everything in its power to impose a solution in accordance with international law, it would find itself faced with an international disaster. By reducing the amount of food aid, it would have contributed, intentionally or not, to the loss of the physical and intellectual resources to which all peoples should be legally entitled. While awaiting the political solution, which would hopefully be rapidly forthcoming, the international community should help the Saharan refugees to live in decent, humane conditions.

71. *Ms. Teuwen withdrew.*

72. *At the invitation of the Chairman, Mr. Mayol I Raynal (European Parliament Intergroup "Peace for the Saharawi People") took a place at the petitioners' table.*

73. **Mr. Mayol I Raynal** (Member of the European Parliament), speaking on behalf of the European

Parliament Intergroup “Peace for the Saharawi People”, said that there would be no peace in Western Sahara without justice, in other words, without the free exercise of the right to self-determination with the democratic choice of separation. He recalled the history of the question of Western Sahara, the former Spanish colony of Rio de Oro, which had been included in the list of Non-Self-Governing Territories in 1963. The 1970 uprising at Zemla had marked the start of the Saharan people’s liberation struggle and had forced the administering Power, Spain, to make preparations for a referendum on self-determination. However, Morocco had invaded the Territory in 1975 and the Frente POLISARIO had then resisted so fiercely that Morocco had been forced to sign a ceasefire agreement in 1990.

74. Under the so-called tripartite Madrid Accords of November 1975, Spain had ceded to Morocco and Mauritania rights that it did not possess, in flagrant violation of international law. That fact had been noted by the International Court of Justice, which had rejected Morocco’s claims and confirmed the right of the Saharan people to self-determination. The Security Council had requested Morocco’s unconditional withdrawal from Western Sahara, but unfortunately the Franco-American alliance on the question had prevented the Council from finding ways to force Morocco to accept that decision. Today, the representative status of the Frente POLISARIO was recognized by 75 States.

75. In 1991, the Settlement Plan, signed by all parties, had provided for a ceasefire and for the holding of a referendum on self-determination, based on an electoral list established by the United Nations Mission for a Referendum in Western Sahara (MINURSO). However, Morocco, backed by a neocolonial Power, France, had succeeded in blocking the international community. Moreover, in 2001 it had almost succeeded in making the international community renege on its commitments, after the Security Council had appeared to support a plan known as the “third way” proposed by the Secretary-General’s Personal Envoy, James Baker. The plan had implied the de facto endorsement of the Moroccan occupation, because it had provided for all Moroccan settlers to take part in a pseudo-referendum. The Frente POLISARIO had categorically opposed that plan.

76. The plan had therefore been revised and the new version provided for a referendum on self-

determination that would take place four to five years after the plan had entered into force. During that period, the Territory would enjoy a form of substantial autonomy, with legislative and executive institutions elected by the Saharan people themselves on the basis of a census carried out by the MINURSO Identification Commission (which had registered 85,436 people). However, the electoral roll for the referendum on self-determination would be extended to include all those who had entered the Territory since 30 December 1999, including approximately 150,000 Moroccan settlers.

77. Despite the risks, the Frente POLISARIO had accepted the new Baker plan in its entirety, but Morocco had rejected it. The Security Council had approved it unanimously, while adhering to the meaning of Chapter VI of the Charter of the United Nations, thereby making a concession to France, which had the right to a veto. The Security Council had “supported” the plan without endorsing it, and had stated that agreement depended on agreement between the two parties, knowing full well that Morocco, which desired to impose its will on the international community, had clearly expressed its opposition to the Settlement Plan. That meant that the de facto situation, which was in all respects in contravention of international law, might be perpetuated even further, for the benefit of the Moroccan occupying force and those beholden to it.

78. He therefore asked the United Nations to demand that Morocco should hold a referendum on self-determination. He was convinced that the Committee would share his opinion.

79. *Mr. Mayol I Raynal withdrew.*

80. **Mr. Pisa** (United Kingdom of Great Britain and Northern Ireland), exercising his right of reply to the statement made previously by the representative of Spain concerning Gibraltar, said that the United Kingdom would continue to respect its commitment to the people of Gibraltar, as set forth in the preamble to the Constitution of Gibraltar of 1969, which established the principle of the consent of the people of Gibraltar to any change with respect to sovereignty. The United Kingdom Government believed that questions concerning Gibraltar could be resolved only through dialogue. Its goal remained that of building a better future for the people of Gibraltar.

The meeting rose at 6 p.m.