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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

Special Committee decision of 14 June 2004 concerning Puerto Rico

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I. Introduction

1. At its 6th meeting, on 9 June 2003, the Special Committee adopted resolution A/AC.109/2003/22 on the question of the Special Committee decision of 10 June 2002 concerning Puerto Rico. In paragraph 9 of the resolution, the Special Committee requested the Rapporteur to submit a report to it in 2004 on the implementation of the resolution. The present report was prepared by the Rapporteur of the Special Committee in compliance with that request. It considers Puerto Rico in the light of previous reports prepared by the Rapporteur, recent political and military developments in Puerto Rico and action taken by United Nations bodies on the matter.

II. Background information

A. General

2. Puerto Rico is the most easterly and smallest island of the Greater Antilles, in the Caribbean Sea. It has a land area of 8,959 square kilometres, including the small nearby islands of Vieques, Culebra and Mona. More than three fourths of Puerto Rico is mountainous and the range that runs its length reaches an elevation of 1,338 metres¹ at its highest point.

3. According to the United States Census Bureau, the population of Puerto Rico totalled an estimated 3.9 million in 2004.² In addition, there are reportedly some 3.4 million Puerto Ricans residing on the mainland of the United States of America.³ The population of the island is basically Spanish-speaking, but often bilingual in English and Spanish. Puerto Rico is one of the most densely populated areas in the world, with an average of 429 people per square kilometre. It is highly urbanized, with the capital, San Juan, accounting for about one third of the population.⁴

4. United States citizenship is granted to people born in Puerto Rico, but they do not have the right to vote in United States presidential or congressional elections unless they reside on the United States mainland. Under the current Commonwealth arrangements, authority over defence, international relations, external trade and monetary matters remains with the United States, while Puerto Rico has autonomy on tax matters, social policies and most local affairs. The main political parties in the Territory differentiate themselves mostly by their position on the ultimate political status of Puerto Rico, none being satisfied with the status quo. The Partido Popular Democrático (PPD), currently in power, favours an enhanced Commonwealth status, under which Puerto Ricans would remain under United States sovereignty and retain United States citizenship, but would have greater governmental authority over their own affairs and more latitude to establish regional and international relations. The Partido Nuevo Progresista (PNP) favours Puerto Rico becoming a fully integrated state of the United States. The third party, the Partido Independentista Puertorriqueño (PIP), favours independence for the island.

B. Constitutional and political status

5. The 1952 Constitution of the Commonwealth of Puerto Rico is described in detail in paragraphs 91 to 119 of the Rapporteur's report of 1974 (A/AC.109/L.976).

In brief, the Government consists of: (a) a Governor elected for four years at each general election; (b) a Legislative Assembly comprising two houses, the Senate (27 members) and the House of Representatives (51 members elected by direct vote of the adult population at each general election); and (c) a Supreme Court and lower courts. Puerto Rico is represented in the Government of the United States by a Resident Commissioner, who is a non-voting member of the United States House of Representatives, but a voting member of the committees on which he or she sits. Although it has its own courts, the Puerto Rican legal system is integrated into the United States federal judicial system via the First Circuit Court of Appeals. Federal law prevails over local law.

6. Even after the establishment of a constitutional Government for Puerto Rico in 1952, all laws concerning the Territory's relations with the United States remained in force through the Federal Relations Act (see A/AC.109/L.976, paras. 120 to 132), under which Puerto Rico was brought within the trade, tariff and monetary systems of the United States. The United States also undertook responsibility for the defence of Puerto Rico. In 1958 Puerto Rico's Legislative Assembly requested changes in the Federal Relations Act. In 1959 three bills requesting changes in the political status of the Territory were submitted to the United States Congress, but no action was taken on any of them. When a plebiscite was held in 1967, offering inhabitants the choice between independence, becoming a part of the United States or maintaining the Commonwealth status, the latter option was upheld by 60.41 per cent of voters.

7. The results of a 1993 plebiscite, with virtually identical options to those in the 1967 plebiscite, were 48.4 per cent for the status quo (Commonwealth), 46.2 per cent for statehood and 4 per cent for independence. Following this result, the Legislative Assembly of Puerto Rico requested the United States Congress to decide whether the definition of Commonwealth, as presented on the ballot, was acceptable. Congress replied negatively, arguing that the definition contained expectations that were not viable (A/AC.109/1999/L.13, paras. 172 to 180). The Puerto Rican Legislative Assembly then voted to hold another plebiscite in 1998. In February 1997, the Young Bill was introduced in the United States Congress, seeking to make the results of the proposed 1998 Puerto Rican plebiscite binding on the United States Government. The bill was adopted by the House of Representatives in March 1998, by a one vote margin of 209 to 208, but it was not acted upon by the Senate before the end of the congressional session and thus expired.

8. The organization of the 1998 plebiscite continued as scheduled, despite the failure of Congress to bind the United States Government to the results. There was, however, much controversy regarding the wording of the ballot choices. The pro-Commonwealth PPD protested that the ballots, as drafted, misrepresented the Commonwealth status and deliberately sought to confuse its supporters by including another option, "Free association", the definition of which was very similar to "Commonwealth status". PPD insisted that a fifth option, "None of the above", be included on the ballot, and it encouraged its supporters to choose that option. The results of the plebiscite held on 13 December 1998 were as follows: 50.4 per cent for "None of the above"; 46.7 per cent for statehood; 2.3 per cent for independence; 0.3 per cent for free association; and 0.06 per cent for Commonwealth.

9. After the 1998 plebiscite, the President of the United States, William J. Clinton, stated that he would work with Congress and leaders in Puerto Rico to clarify the status issue. He then established the President's Task Force on Puerto Rico's Status and instructed its co-Chairs to conduct an ongoing dialogue with the Governor and Resident Commissioner of Puerto Rico, the major political parties and other groups that advocated a change in the island's status. The aim of the dialogue was to seek to clarify the options for the island's future status and to enable Puerto Ricans to choose between statehood, Commonwealth and independence.

10. When President George W. Bush took office in January 2001, he amended his predecessor's Executive Order on the Task Force on Puerto Rico's Status by extending the deadline for the Task Force's recommendations from 1 May 2001 to 1 August 2001.⁵ In March 2002, the Puerto Rican media reported that the White House had released the names of the interim members of the Task Force and added that the list included assistants to almost all the members of President Bush's Cabinet. According to a White House spokesperson quoted in the media, the Task Force was reviewing Puerto Rico's options and the Justice Department was providing guidance on legal and constitutional matters.⁶

11. On 5 December 2003, the White House named the 16 members of the Task Force. At the same time, President Bush amended President Clinton's Executive Order to require the Task Force to report on the progress made every two years instead of annually. In announcing the membership of the Task Force, a White House news release said that it "would seek to implement the policy set forth" under President Clinton's order. Leaders of both the pro-Commonwealth PPD and the pro-independence PIP have said that the move did not indicate any serious intention on the part of President Bush to take action on the political status of Puerto Rico in the near future, while the pro-statehood PNP welcomed the announcement as a sign that Washington, D.C. was interested in dealing with the issue after the Puerto Rico and United States elections in November 2004.⁷ The Task Force is expected to issue a status report in 2005.

III. Recent developments

A. Political

12. The last general election held in Puerto Rico took place in November 2004. Voters elected the Governor and the delegate to the United States Congress, members of the local Senate and Chamber of Representatives as well as candidates for a variety of municipal and local positions.

13. In the gubernatorial race, the PPD candidate, former Resident Commissioner Anibal Acevedo Vila, defeated the former Governor, Pedro Roselló González of the PNP, thereby replacing Ms. Sila María Calderón, who chose not to seek a second term. With only 0.2 per cent of the votes separating the candidates, the election was submitted to a recount on 8 November 2003, and with a margin of only 3,228 votes, Mr. Acevedo Vila was handed the victory. However, the official election result was not announced until 23 December 2004, as Mr. Roselló González contested the validity of certain ballots cast during the elections. From the Supreme Court of Puerto Rico, who ruled in favour of Mr. Acevedo Vila, the case moved up to the First Court of Appeals for the First Circuit in Boston, Massachusetts, where three

judges ruled that it was a question of state law, not federal law, and was therefore in the jurisdiction of the Supreme Court of Puerto Rico.

14. The PNP won control of the legislature from the PPD, taking 18 seats in the 27-member Senate and 34 in the 51-member House of Representatives. The independence party, PIP, kept its one seat in both chambers.

15. In the elections for the position of Resident Commissioner (Puerto Rico's non-voting representative in the United States Congress), Mr. Luis Fortuno of the PNP defeated Mr. Roberto L. Prats Palerm of PPD.

16. The main issues of the elections were the economy, corruption, crime and, to a certain extent, the future financing of the state medical insurance plan and the pension system. Educational reform as a means of increasing job opportunities was also raised by both candidates. According to some observers, the question concerning the political status of Puerto Rico did not seem to weigh heavily in the campaign.⁸

17. During 2001, Governor Calderón's first year in office, the two issues that had dominated the 2000 campaign (the constitutional status of Puerto Rico and United States military exercises on Vieques) became subordinate to efforts to revive the economy (A/AC.109/2003/L.3, paras. 37 to 40) and the fight against corruption. The latter continued in 2002 with indictments issued against 17 former PNP government officials on charges ranging from theft and extortion to bribery.⁹ In January 2002, Governor Calderón announced measures to stem corruption, including the investigation of all government agencies that had contracts with individuals and firms accused of fraud and the creation of a financial ethics committee for electoral campaigns. Subsequently, the opposition raised counter-charges, alleging misuse of public funds by the Governor and her party.¹⁰ On 18 June 2002, the Governor enacted three new laws to fight crime and corruption.¹¹ Moreover, the budget for the 2003 fiscal year included \$31 million in additional funds to fight corruption. Despite these efforts, a 2004 survey in a newspaper, *El Nuevo Día*, showed a majority of those polled expressing the view that political corruption persisted and had worsened.¹² Governor Acevedo Vila's stated priorities for his term include battling crime, reforming the prison system, helping small and medium-sized businesses, job creation, decentralizing the government, infrastructural projects and addressing the phasing out in 2005 of Section 30A of the United States tax code (under which United States companies in Puerto Rico enjoy certain tax benefits).¹²

18. With respect to the political status of Puerto Rico and its relationship with the United States, the debate was brought to the legislative forefront in April 2002, when both the Senate and the Legislative Assembly of Puerto Rico approved resolutions recommending the establishment of an assembly on the status of the Puerto Rican people as the most viable and appropriate mechanism to determine the island's future status.¹³ This recommendation was supported by PPD, by the pro-independence PIP party and by entities such as the Puerto Rican Bar Association. However, it was opposed by PNP, which viewed the proposed mechanism as a futile, unilateral exercise because it did not engage the United States Government from the outset.¹⁴

19. On 22 July 2004, the Legislative Assembly of Puerto Rico approved a resolution recommending the establishment of a constitutional assembly on the status of the Puerto Rican people.¹⁵ It is expected that a referendum will be held

during 2005 to choose a preferred mechanism through which to deal with the status issue. The options will be a constitutional assembly or a process initiated by the United States Government.¹⁶ According to Governor Acevedo Vila, the preparations for the referendum will be initiated during the first half of 2005.¹⁷

20. As described in previous reports, apart from general political questions, three specific issues have been raised before the Special Committee in recent years as resulting from the particular political status of Puerto Rico and its relationship with the United States: (a) the United States military presence in Puerto Rico, particularly on the island of Vieques; (b) the imprisonment in the United States of pro-independence Puerto Ricans accused of seditious conspiracy and weapons possession; and (c) the application of the death penalty to Puerto Ricans convicted on federal charges.

21. As in previous reports, the issue of the United States military presence in Puerto Rico will be dealt with in the section on military developments (see paras. 30 to 44 below).

22. The issue of the Puerto Ricans accused of seditious conspiracy and weapons possession some 20 years ago and imprisoned in the United States has also been covered in previous reports. In essence, a number of Puerto Rican organizations and political and civil leaders have claimed over the years that these are essentially political prisoners and that they received disproportionately long sentences. In August 1999, President Clinton offered to release the prisoners, conditionally, if they formally renounced the use of violence. This offer was accepted by 11 of the original 15 prisoners and one accepted a bargain by which he would be set free in five years. Supporters of those who were released noted that the conditions included tight controls over their actions and statements, which effectively prevent them from continuing to advocate independence for Puerto Rico. On 10 September 2001, a petition for the early termination of supervision was submitted on behalf of the nine former prisoners still subject to parole conditions. In the aftermath of the events of 11 September 2001, under new rules implemented by the United States Attorney General, two of the remaining prisoners were placed in punitive segregation, even though it is reported that there was no reason to believe that they had any connection to those events.¹⁸ Two of the prisoners were released, Antonio Camacho Negrón in May 2002 and José Solís Jordán in November 2002.¹⁹

23. The issue of the application of the death penalty to Puerto Ricans convicted of crimes was described in detail in paragraph 23 of the 2000 report (A/AC.109/2000/L.3), as were recent cases in which the death penalty was sought against Puerto Ricans. Despite the fact that the death penalty is prohibited in Puerto Rico, the United States Department of Justice has sought the death penalty for 15 Puerto Rican defendants since 1992, resulting in one of the highest death penalty rates per capita of any state or Territory within the United States. The Puerto Rico Supreme Court ruled in 2000 that the death penalty violated the Puerto Rican constitution, but a year later, the United States Circuit of Appeals in Boston overturned the ruling, saying Puerto Rico is subject to federal law. The United States Supreme Court upheld the decision. As at March 2005, the United States Attorney General authorized federal prosecutors to seek the death penalty for the second time in 75 years in a case against two young men who allegedly killed a security guard in an attempted robbery of an armoured vehicle.²⁰

24. Popular opinion in Puerto Rico is strongly against the death penalty and a coalition of religious, community organizations and political leaders have vowed to continue fighting attempts to impose capital punishment on the island.

B. Military

25. As has been described in previous reports, for many years Puerto Rico has held an important military-strategic position within the United States Southern Command. In addition to its other military operations in Puerto Rico, from 1941 to 1 May 2003 the United States Navy operated on the island of Vieques, an island of 9,500 inhabitants located eight miles off the east coast of Puerto Rico. Vieques was used for naval gunfire support, air-to-ground ordnance training and amphibious assault exercises. Details of the military exercises conducted on Vieques during the period that the Navy owned part of the island and of the related civil disobedience campaigns, arrests and lawsuits are to be found in previous reports of the Special Committee (A/AC.109/1999/L.13, paras. 18 to 22, A/AC.109/2000/L.3, paras. 24 to 30, A/AC.109/2001/L.3, paras. 29 to 38, and A/AC.109/2002/L.4, paras. 27 to 36). According to a news release following the cessation of the military operations, the Department of the Navy would retain responsibility for the environmental clean-up of the property and would demolish and remove all facilities and structures in the area. The media reports about the official end of the Navy's presence on Vieques on 1 May 2003 were followed by four days of activities celebrating the end of the bombing and the start of a new future for the island.²¹

26. The departure of the United States Navy from the island of Vieques followed a period of protests, often violent, in Vieques and various political initiatives by the United States Administration and by Puerto Rican representatives to clarify the future of Navy activities on the island. Throughout 2004, protests continued in Vieques and in Washington, D.C. in support for the efforts to decontaminate, redistribute and develop lands held by the Navy.²²

27. On 29 July 2001, a non-binding referendum was held on Vieques. The Navy presence was opposed by 68 per cent of the voters, 30 per cent voted for the Navy to stay indefinitely and 1.7 per cent favoured the Navy staying only until 2003. Governor Calderón subsequently stated that the people of Vieques had made their decision and had spoken clearly, and announced that she would send the results to the White House and Congress. The response of the White House was to reiterate that the Navy would withdraw from Vieques, as scheduled, in May 2003 and would continue training with dummy bombs until then.²³

28. On 20 October 2002, the Governor announced that she had received official confirmation from the United States Government that the Navy's activities in Vieques would cease in May 2003, as President Bush had stated earlier in the year. In an official communiqué, she commended the tireless work of Vieques residents, the numerous representatives of political parties and civil society and the many supporters in the United States who had fought for this outcome.²⁴

29. On 10 January 2003, the United States Secretary of the Navy certified in writing to Congress that, as planned, the Navy and the Marine Corps would cease military training on Vieques on 1 May 2003, after which they would use alternative training sites in the south-eastern United States and at sea.²⁵ For their part, officials and protesters on Vieques expressed jubilation and stated that, once the exercises

were over, they would transfer their energies to demanding that the Navy and the Department of the Interior assess the environmental damage of the past 60 years and commit to a thorough clean-up of the area. On 13 January 2003, the Navy began its last military exercises over the island, involving aerial bombing from fighter jets using inert munitions.

30. Following the withdrawal of the Navy from Vieques, three related issues remain to be clarified: (a) the future development of Vieques and its environmental clean-up; (b) definitive conclusions regarding the effects of the military exercises on the health of Vieques residents; and (c) the future of the Roosevelt Roads Naval Station on the main island of Puerto Rico.

31. Regarding the development of Vieques, the Puerto Rican Government has announced infrastructure and job creation investments of \$50 million over the next four years within the Renacer Viequense programme.²⁶ At the same time, the island is attracting new tourism ventures, such as the recently opened 156-room Wyndham Martineau Bay Hotel.²⁷ The Puerto Rican Government has made it clear that it expects federal authorities to clean up the former Navy lands. The Administrator of the Environmental Protection Agency (EPA) has reportedly stated that the Agency would ensure that the Department of Defense complies with federal environmental laws.

32. Plans called for most of Camp García, a 12,000-acre military area, to be transferred to the Department of the Interior to manage as a wildlife refuge, which would call for a lower standard of clean-up than if it were developed for public use, while the 900-acre live impact bombing area would be fenced off and access permanently denied. In June 2002, it was announced that 3,100 acres relinquished by the United States Navy in 2001 could be held in joint jurisdiction by the Department of the Interior's Fish and Wildlife Service and the government of Puerto Rico.²⁸ However, increasing calls from within Puerto Rico asked for territorial authorities to win title to at least some of the former Navy lands. In April 2003, Puerto Rico's Representative to the United States Congress obtained further assurances from the Department of Defense that the Navy would clean up its lands.²⁹

33. On 9 May 2003, the office of the Puerto Rico Resident Commissioner announced that the Armed Services Committee of the United States Senate had approved an amendment ordering the Navy, in cooperation with the Department of the Interior and the Environmental Protection Agency, to undertake a clean-up project of the land in Vieques that had been transferred to the Department of the Interior. Working with these agencies and the Puerto Rico Environmental Quality Board, the Navy has estimated that cleanup of the western part of Vieques, the former Naval Ammunition Supply Detachment, will be completed by 2007 at a total cost of \$16 million. Cleanup of eastern Vieques, the former training and bombing range, is expected to be completed by 2014 at a total cost of \$14 million, while the beaches and the live impact area will be cleaned at an estimated cost of \$76 million. Work is expected to continue beyond 2005.³⁰

34. Currently, the island is sectioned off. The western side was transferred to the United States Department of the Interior, the municipality of Vieques and the Puerto Rico Conservation Trust, while the eastern part was transferred to the Fish and Wildlife Service of the Department of the Interior, to be added to the current Vieques National Wildlife Refuge.³¹

35. On 5 January 2004, the Environmental Protection Agency announced the beginning of the investigation of areas of eastern Vieques under the Resource Conservation and Recovery Act. As part of this investigation, contractors working for the United States Navy took samples of surface and subsurface soil and groundwater from 10 newly installed wells. The Environmental Protection Agency, in cooperation with the Puerto Rico Environmental Quality Board, provided oversight of the investigation. The Environmental Protection Agency also collected soil and groundwater samples and conducted independent analyses. On 13 August 2004, the Environmental Protection Agency proposed that former Navy sites on Vieques and old Army sites on the island of Culebra be included on the Superfund National Priorities List. Vieques' formal inclusion on the list of the most hazardous waste sites in the United States was announced by the Environmental Protection Agency on 7 February 2005. However, a final determination on the status of Culebra is still pending the development of a memorandum of agreement between Puerto Rico and the Army, which is currently responsible for the areas. If an agreement cannot be reached, Puerto Rico may request that Culebra also be included on the Superfund National Priorities List.³²

36. A delegation of New York politicians visited Vieques and stated that they wanted to make sure that the United States Government did adequate clean-up following the Navy's departure. The representatives were briefed by the United States Fish and Wildlife Service, which has managed some 15,000 acres since the Navy's withdrawal. Turning part of the island over to the Service is viewed unfavourably by most Puerto Ricans, who noted that the agency did not voice any objections when the United States Navy used the island for bombing exercises.

37. Regarding the possible effects of the military exercises on the health of Vieques residents, the debate continues between the Navy, which maintains that its bombing and training exercises have done nothing to harm the health of Vieques residents, and those who maintain that there have been abnormally high cancer rates and other health problems on the island. While Puerto Rican Health Department statistics indicate that Vieques cancer rates were about 26 per cent above Puerto Rico's average throughout much of the 1980s and early 1990s, in October 2002 the Puerto Rican Health Secretary announced that a study was examining a variety of potential causes of cancer, including diet and limited health-care facilities, as well as the Navy exercises. In the meantime, a study conducted by the federal Agency for Toxic Substances and Disease Registry on potential pathways of contamination between the Navy bombing range and the civilian area about 16 kilometres away concluded in December 2002 that there was no apparent public health hazard.³³ Further studies are being conducted. However, no conclusive evidence was revealed in 2004.

38. The third related issue is the future of the Roosevelt Roads Naval Station, home to the United States Naval Forces Southern Command from 1941 to 31 March 2004. Built on the eastern tip of Puerto Rico, seven miles from Vieques and covering 8,612 acres, it employed some 4,800 permanent staff and temporary contractors and was estimated by the Navy to inject more than \$300 million into the local economy each year. However, in January 2003, Admiral Natter, Commander-in-Chief of the Atlantic Fleet, announced that, without Vieques, the Roosevelt Roads facilities would no longer be necessary,³⁴ and on 24 September 2003, the United States Congress formally approved the closing of the Naval Station as part of a defence-spending bill passed in Washington, D.C. Puerto Rico's Resident

Commissioner, who opposed the closing of the naval base and fought to have the land transferred to the territorial Government, said that the government of Puerto Rico would be able to participate in deciding on future uses of base land and that it would have access to about 40 per cent of the revenues from the sale of lands.³⁵ On 2 October 2003, President Bush signed the decision to close the Roosevelt Roads Naval Base, and the base was effectively closed on 30 January 2004. On 31 March 2004, the status of the base was changed from that of a United States military base to “caretaker status”.

39. Puerto Rico’s Resident Commissioner announced in 2004 that the Government of Puerto Rico, in cooperation with the Pentagon, had started work on developing the land immediately after the closing of the base. He said that the Department of Commerce had a development plan that the United States Department of Defense and the Governor viewed favourably.³⁶ The plan calls for a use of 3,868 acres for public and private development, while 3,387 acres of swamps, habitats and “*mogotes*” will be conserved. However, authorities still await the result of an environmental evaluation due in March 2005 before they formally accept the transfer of land.

C. Economic

40. Puerto Rico has an industrialized economy with particular characteristics derived from its island geography and close institutional links to the United States. Its per capita gross domestic product is \$16,800,³⁷ whereas that of the United States is \$37,800.³⁷ Economic performance is closely tied to the United States business cycle, its tax regime and the level of federal transfers. The manufacturing sector, which includes operations in pharmaceuticals, electronics and scientific and precision instruments, accounts for more than 39 per cent of the gross domestic product (GDP), while agriculture contributes less than 1 per cent. Industrialization was encouraged by the Industrial Incentive Act of 1954, which granted concessions to United States companies that located plants on the island. In addition, section 936 of the United States Federal Tax Code provided generous tax incentives to such companies, including the right to tax-free repatriation of profits. Through the years, these policies helped to make Puerto Rico an “offshore manufacturing outpost”³⁸ of the United States, transforming the economy from a sugar-dominated Caribbean plantation economy to a modern industrialized one. In 1996, however, a budget-conscious United States Congress adopted legislation that would begin phasing out these tax incentives as part of its budget reconciliation and abolish them entirely by 2007. In addition, labour-intensive manufacturing of textile products and clothing has declined as a result of overseas competition. Thus, a major challenge for Puerto Rico’s economic policy over the past several years has been to prepare the economy for the effects of the phase-out of section 936 tax exemptions by reducing the island’s dependence on manufacturing and promoting the development of the high-technology and tourism sectors.

41. Throughout 2002, Governor Calderón continued her lobbying of the United States Congress to modify tax legislation in order to bring new companies to the island. Reportedly, during the previous congressional session, she had submitted to the Ways and Means Subcommittee of Congress and the Finance Committee of the Senate a proposal that would amend section 956 of the Internal Revenue Code and, essentially, recreate section 936 as it was before the Federal Government decided to

eliminate most of the tax exemptions. Thus, for companies setting up subsidiaries in Puerto Rico as controlled foreign corporations, the tax payable on profit remittances to the mainland would be cut from 35 per cent to 10 per cent or less. However, in late September 2003, the United States Senate Finance Committee rejected the amendment to section 956 and, as a result, the proposal did not go to the United States Congress. Governor Acevedo Vila has expressed hopes of introducing new legislation on tax changes after his inauguration on 2 January 2005.⁸ The Governor proposed, prior to the election, a new economic development plan that would involve stepped-up research and development into new technologies. Acevedo Vila has promised a \$1 billion injection into this project, which would seek to transform the Puerto Rican economy from one consisting of labour-intensive industry to one focused on high-tech, capital-intensive industry, while adding 33,000 new jobs. In so doing, the Governor hopes to counter the negative effects of the phasing out of the United States Federal Tax Code.³⁹

42. A programme of investment in infrastructure and public works intended to stimulate the economy (part of a total \$6 billion investment package over four years), which includes the mass transit system Tren Urbano, the trans-shipment hub, Port of the Americas, in Ponce, a convention centre in San Juan and other, lower profile projects, is under way. However, several projects were delayed in 2004. An investigation of the Tren Urbano by United States Government investigators was also pending, as authorities grew increasingly suspicious of the project's large cost overrun.⁸ It was announced on 4 February 2004 that Puerto Rico had opened bidding from local and international companies to build the port in Ponce. The port is expected to be among the largest in the Americas. Supporters of the project expect it to generate thousands of jobs. Experts point out, however, that its success will depend in part on labour costs, which are usually higher in Puerto Rico than in other countries in the Caribbean and Latin America. In addition, they noted that success could depend on whether Puerto Rico was successful in lobbying the United States Government to change the Jones Act of 1917, which requires cargo between Puerto Rico and the United States to be transported on American-built and operated ships, which are generally more expensive.⁴⁰ According to the Puerto Rico Planning Board, economic indicators point to a continuing recovery in the local economy that will result in real gross national product growth of about 2.7 per cent in fiscal year 2003/04 and an estimated growth of 2.5 per cent in fiscal year 2004/05. The growth recovery was also reflected in a boost in the construction sector, which saw a 5.5 per cent rise in private construction permits, while permits for government projects rose by 27.4 per cent.⁸ In January 2005, the unemployment rate was 11.1 per cent, down from 11.6 per cent a year earlier in January 2004,⁴¹ and tourism is also doing well, with a 3.4 per cent year-on-year increase in hotel registrations in fiscal year 2003/04. The local economy suffered a setback in September 2004, when tropical storm Jeanne hit the island, prompting President Bush to declare Puerto Rico a disaster area.⁸ Serious concerns have also been raised lately over structural imbalances in public finances. In September 2004, Puerto Rico's public debt amounted to \$38 billion, and in early January 2005, the Government Development Bank of Puerto Rico officially acknowledged a "structural deficit" of almost \$1.4 billion. Further problems could arise in the coming fiscal year as no sources of funds have yet been identified to cover operational expenses for projects such as the Tren Urbano, the new convention centre and the Port of the Americas.⁴²

IV. Previous action taken by the United Nations

A. General

43. Since 1953, the United States has maintained a consistent position regarding the status of Puerto Rico and the competence of United Nations organs to examine that status, based on General Assembly resolution 748 (VIII) of 27 November 1953, by which the Assembly released the United States from its obligations under Chapter XI of the Charter of the United Nations. Since then, the United States has maintained that Puerto Rico has exercised its right to self-determination, has attained a full measure of self-government, has decided freely and democratically to enter into a free association with the United States and is, therefore, as stated explicitly in resolution 748 (VIII), beyond the purview of United Nations consideration.

44. Information on action taken by United Nations bodies with respect to Puerto Rico prior to 1974 is contained in the 1973 report of the Rapporteur (A/AC.109/L.976). Information since then can be found as follows: A/AC.109/L.1191 and Add.1 (for 1974 to 1976); A/AC.109/L.1334 and Add.1-3 (for 1977 and 1978); A/AC.109/L.1436 (for 1979 to 1981); A/AC.109/L.1572 (for 1981 to 1985); A/AC.109/1999/L.13 (for 1984 to 1998); A/AC.109/2000/L.3 (for 1999); A/AC.109/2001/L.3 (for 2000); A/AC.109/2002/L.4 (for 2001); and A/AC.109/2003/L.3 (for 2002).

B. Action taken by the Special Committee

45. At its 1st meeting, on 11 February 2004, by adopting the suggestions relating to the organization of work put forward by the Chairman (see A/AC.109/2004/L.2), the Special Committee decided to take up as appropriate the item entitled "Special Committee decision of 9 June 2003 concerning Puerto Rico" and to consider it at plenary meetings.

46. At the 5th meeting, on 9 June 2003, the Chairman of the Special Committee drew attention to a number of communications received from organizations requesting to be heard on Puerto Rico by the Committee. At the same meeting, the Special Committee agreed to accede to those requests and heard the following representatives of the organizations concerned at its 5th and 6th meetings (see A/AC.109/2003/SR.5 and 6):

- *5th meeting*: Jorge Farinacci García (Frente Socialista); Angel Ortiz Guzmán (PROELA); Berthaida Seijo Ortiz (Colegio de Abogados de Puerto Rico); Salvador Vargas, Jr. (Concerned Puerto Rican Americans); Alice Hernández (Partido Nacionalista de Puerto Rico); Miguel Otero Chavez (Gran Oriente Nacional de Puerto Rico); Francisco Velgara (Vieques Support Campaign); Betty Brassell (United for Vieques, Puerto Rico); Benjamin Ramos Rosado (ProLibertad Freedom Campaign); Fernando Martín García (Puerto Rican Independence Party); Vanessa Ramos (American Association of Jurists); Carlos González (Comité Pro Rescate y Desarrollo de Vieques); Manuel Rivera (Puertorriqueños Unidos en Acción); José Adames (Al Frente); Nilda Luz Rexach (National Advancement for Puerto Rican Culture); Anita Vélez Mitchell (Primavida); Julio Antonio Muriente Pérez (Nuevo Movimiento)

Independientista Puertorriqueño); Wilma Reverón Collazo (Comité Puerto Rico en la ONU)

- *6th meeting*: Noel Colón Martínez (Congreso Nacional Hostosiano de Puerto Rico); Roger Calero (Political Rights Defense Fund); Martin Koppel (Social Workers Party); Luis Rosa-Pérez (Puertorican Human Rights Committee); Ricardo Gabriel (Hostos Puerto Rican Club at Hunter College); Anthony Melé (65th Honor Task Force)

47. At the 6th meeting, the representative of Cuba introduced draft resolution A/AC.109/2003/L.7. The representative of the Bolivarian Republic of Venezuela explained his support for the text. Also at that meeting, the Special Committee adopted resolution A/AC.109/2003/22 without a vote. Subsequently, the representative of Cuba made a statement.

C. Action taken by the General Assembly

48. During the fifty-eighth session of the General Assembly, no draft resolution on this issue was submitted to the Assembly for action. Introducing the report of the Special Committee at the 72nd meeting of the Assembly, on 9 December 2003, the Acting Chairman of the Special Committee recalled that, at the end of its session, the Committee had adopted a resolution on Puerto Rico by consensus.

Notes

¹ www.cia.gov/cia/publications/factbook, see Puerto Rico.

² www.census.gov.

³ EFE newswire, 18 October 2001.

⁴ *Economist Intelligence Unit*, Puerto Rico Country Profile, 2002.

⁵ www.whitehouse.gov/news/releases/2001/04.

⁶ www.puertorico-herald.org/issues/2002/vol6n09/WashUpdate0609-en.shtml.

⁷ *Economic Intelligence Unit*, Country Report, Puerto Rico, December 2003.

⁸ Ibid., October 2004.

⁹ *The Washington Post*, 15 August 2001, and *The New York Times*, 24 January 2002.

¹⁰ *Financial Times*, 25 March 2002.

¹¹ www.fortaleza.gobierno.pr, accessed 18 June 2002. One of the three laws established the Office of the Attorney General, with functional and financial autonomy to investigate crime in the Territory; the second, known as the Código de Contratistas, regulates the conduct of all those who provide services to the Government; and the third established the Registro Uniforme de Licitadores, which stipulates the conditions that must be met by all entities that bid for public contracts.

¹² *Economist Intelligence Unit*, Country Report, Puerto Rico, July 2004.

¹³ Cámara de Representantes, resolution 3873, 25 April 2002.

¹⁴ *The San Juan Star*, 8 October 2002.

¹⁵ Speech of Anibal Acevedo Vila in the United States House of Representatives, 6 October 2004.

- ¹⁶ Letter from Anibal Acevedo Vila, president of the Partido Popular Democrático to the Chairman of the Special Committee dated 11 June 2004.
- ¹⁷ Speech of Anibal Acevedo Vila in the United States House of Representatives.
- ¹⁸ Information from Jan Susler provided by Congreso Nacional Hostosiano, 2 May 2002.
- ¹⁹ www.boricuanacional.org.
- ²⁰ www.puertorico-herald.org/issues2/2005.
- ²¹ www.news.navy.mil, 30 April 2003; *Associated Press*, *Reuters* and *The New York Times*, 1 May 2003.
- ²² *Associated Press*, 14 May 2004.
- ²³ *The New York Times*, 29 July 2001; *Chicago Sun-Times*, 31 July 2001.
- ²⁴ www.fortaleza.gobierno.pr, 20 October 2002.
- ²⁵ Pentagon new release, 10 January 2003, and *Reuters*, 10 January 2003.
- ²⁶ www.fortaleza.gobierno.pr, 6 June 2002 and 20 October 2002.
- ²⁷ *Associated Press*, 25 February 2003.
- ²⁸ www.fortaleza.gobierno.pr, 6 June 2002, and *The Miami Herald*, 8 June 2002.
- ²⁹ www.house.gov/acevedo-vila, 2 April 2000.
- ³⁰ Statement of H. T. Johnson, Assistant Secretary of the Navy before the Subcommittee on Military Construction of the Senate Appropriations Committee, 7 April 2004 (www.chinfo.navy.mil/navpalib/testimony).
- ³¹ Environmental Protection Agency, 1 December 2004, www.epa.gov/region02/vieques/history.
- ³² *Ibid.*, 7 February 2005, www.epa.gov/region02/news/2005.
- ³³ Agency for Toxic Substances and Disease Registry, communiqué, 18 December 2002.
- ³⁴ *Associated Press*, 11 and 16 January 2003.
- ³⁵ *Caribbean Insight*, vol. 26, No. 33 (2003).
- ³⁶ www.house.gov/acevedo-vila, 16 December 2003.
- ³⁷ Central Intelligence Agency, World Factbook 2004 (www.cia.gov/cia/publications/factbook).
- ³⁸ *Economist Intelligence Unit*, Puerto Rico Country Profile, 2002.
- ³⁹ *The San Juan Star*, 6 March 2004.
- ⁴⁰ *Associated Press*, 4 February 2004.
- ⁴¹ United States Department of Labor, Bureau of Statistics, 2005. www.stats.bls.gov/eag.pr.htm.
- ⁴² *Caribbean Business*, 24 February 2005 (www.puertorico-herald.org/issues2/2005vol09n08).