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Chairman: Mr. Hasmy (Malaysia)

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

Agenda item 18: Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (Territories not covered under other agenda items)

Hearing of representatives of Non-Self-Governing Territories

Question of Gibraltar

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

2. **Mr. Caruana** (Chief Minister of Gibraltar) said that he and his predecessor as Chief Minister of Gibraltar had been appearing before the General Assembly annually since 1992 and had deployed many arguments in support of the aspiration of the people of Gibraltar to self-determination, arguing on the basis of the fact that Gibraltar was on the list of Non-Self-Governing Territories, that in the process of decolonization there was no alternative to the principle of self-determination and that that principle applied to all Non-Self-Governing Territories without exception. They had also demonstrated that, contrary to what Spain asserted, the United Nations had no special doctrine applying the so-called principle of territorial integrity to situations of decolonization. As Spain saw it, the application of the principle of self-determination to the decolonization of Gibraltar would disrupt its territorial integrity. Gibraltarians, however, considered that Spain's territorial integrity had been disrupted 297 years earlier, in 1704, and that could hardly justify denying the right to self-determination to the people of Gibraltar. The representatives of Gibraltar had also demonstrated that the United Nations had no special decolonization regime applicable to "territorial enclaves", and that the people of Gibraltar were no different from the numerous other peoples, including Spanish colonists, who had exercised their right to self-determination in much of South and Central America.

3. Clearly there was a territorial dispute, but that fact was scarcely sufficient to deny a people its right to self-determination. Nonetheless, a consensus resolution was adopted in the Committee year after year, which essentially reflected the "consensus" between the United Kingdom and Spain, and by no means took into consideration the rights, aspirations and interests of the

colonial people of Gibraltar. That resolution called for bilateral talks between the United Kingdom and Spain in order to reconcile their differences over Gibraltar. There was, however, no place in that formula for any discussion of the issue of decolonization for Gibraltar and the granting to its population of the right to self-determination.

4. In its attempt to tarnish the reputation of the inhabitants of Gibraltar, Spain had used a number of far-fetched arguments and false facts. It had been asserted, for example, that Gibraltar was engaging in large-scale economic dumping and money-laundering and was polluting the environment, although all those accusations were entirely unfounded and were irrelevant to the issue of the right of the inhabitants of Gibraltar to self-determination. In response to the political and legal arguments used by Spain and the United Kingdom, the representatives of Gibraltar proposed that the issue should be referred to the International Court of Justice so that it could bring to a conclusion the issue of whether the arbitrary interpretation of a 300-year-old treaty could be used to deny a people the right to self-determination. Both Spain and the United Kingdom, however, opposed the referral of that issue to the International Court of Justice and also for some incomprehensible reason opposed any visit to Gibraltar by a mission from the Special Committee. By taking such a position on the question of Gibraltar, Spain and the United Kingdom were putting their national interests before the rights of a colonial people. It should be noted that the Chairman of the Special Committee, Ambassador Peter Donigi, had concluded that the programme of work of the Special Committee on the subject of Gibraltar should not include a mandate to determine the issue of competing sovereignty claims.

5. The people and Government of Gibraltar were not afraid of dialogue with Spain but it must be a reasonable dialogue, in which the position of the people of Gibraltar was taken into account, and not a bilateral dialogue between the United Kingdom and Spain, which would be more like a deal made behind the backs of the Gibraltarians. In a recent political declaration adopted by all the current and past members of the Parliament of Gibraltar, three propositions were stated: the people of Gibraltar would never give up their right to self-determination; Gibraltar wanted normal, good-neighbourly relations with Spain; and Gibraltar belonged solely to the

Gibraltarians. On the basis of that declaration, which reflected the unity and resolve of practically the entire population of Gibraltar, he asked that the Committee should amend its annual consensus resolution so that it would recognize the right of the people of Gibraltar to decolonization in accordance with the principle of self-determination; that, if there was any doubt concerning the Gibraltarians' right to self-determination, it should refer the issue to the International Court of Justice for an advisory opinion; and that the Special Committee on Decolonization should send a mission to Gibraltar to establish the true facts about Gibraltar and its people.

6. *Mr. Caruana withdrew.*

Hearing of petitioners (A/C.4/56/2 and Add. 1; A/C.4/56/3 and Add. 1-7; A/C.4/56/4)

Question of Gibraltar

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

8. **Mr. Bossano** (Leader of the Opposition in the Parliament of Gibraltar) said that, if Gibraltar was to be decolonized before the year 2010, it would be necessary to reconsider the consensus decision supporting the beginning of the Brussels process as the only basis for decolonization. The Gibraltarians were a colonial people covered by the provisions of Chapter XI of the Charter, whatever Spain might say. On that question the Opposition in the Parliament of Gibraltar was absolutely at one with the Government of the country. He recalled that in 1973 the members of the Committee had called for negotiations between the United Kingdom and Spain on the decolonization of Gibraltar, taking into account the provisions of General Assembly resolution 2429 (XXIII), adopted in 1968. However, the representative of Spain had expounded the doctrine that the principle of self-determination did not apply to the question of Gibraltar, which had to be resolved by reference to Spain's territorial integrity. The consensus was also supported by the United Kingdom, which thus effectively endorsed the so-called "doctrine" of the United Nations mentioned by Spain.

9. The consensus had a direct bearing on the decolonization of Gibraltar, its sovereignty and the self-determination of its people. The veiled threats against Gibraltar, alternating with overt pressure on its

colonial people to force them to turn away from their chosen path, violated their inalienable rights. Attempts to compare the situation in Gibraltar with apartheid in South Africa, merely on the basis that the Gibraltarians were striving for decolonization, were the height of hypocrisy and a complete misrepresentation of the facts. A more likely propagator of apartheid was Spain, with its discriminatory attitude towards the Gibraltarians.

10. Gibraltar belonged to the Gibraltarians and was their homeland. The people of Gibraltar called upon the members of the Committee to satisfy themselves that their status met the criteria which the Committee had established for countries under colonial rule. In order for Gibraltar to be dropped from the list of Non-Self-Governing Territories, it was necessary to reject the resumption of the Brussels negotiating process. The problem of the decolonization of Gibraltar would not be resolved until the administering Power recognized the right of the Gibraltarians to self-determination, as had occurred in the case of other countries struggling to free themselves from colonial domination.

11. *Mr. Bossano withdrew.*

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

13. **Mr. Zammit** (United Nations Association of Gibraltar) said that, as a representative of the United Nations Association of Gibraltar, he had addressed the Committee a few months previously, pointing out that the denial of the rights of the people of Gibraltar was a breach of the principles of the United Nations, but his words had not been heard. He had also invited the members of the Committee to send a delegation to Gibraltar to ascertain the situation for themselves, but that had not been done. The people of Gibraltar had the right to determine their own future, and since they were effectively kept out of the dialogue on the matter, their future was in the hands of the United Nations. Pressure was constantly exerted on the people of Gibraltar to deny their own interests for the sake of the wider interests of a united Europe. At the same time, the attitude of the Government of Spain was so inflexible that at times it even overrode its own national interests. It continually discriminated against the inhabitants of Gibraltar in the most varied ways, including telephone connections, the issuance of driving licences, sporting events, and so on. The Spanish authorities also acted

unlawfully on the border between Gibraltar and Spain, creating artificial obstacles for people wanting to enter Spain, and were conducting an international campaign to discredit Gibraltar by accusing it of smuggling and money-laundering. The only official document bearing the words "Government of Gibraltar", which had great symbolic importance, was now the Gibraltarian passport.

14. According to the Oxford English dictionary, the word "genocide" meant the deliberate extermination of a group of people. A group could be exterminated in various ways, and what was happening to the Gibraltarians was perhaps the most politically effective method. For 300 years, representatives of various races, religions and cultures had lived peacefully together in Gibraltar, always believing in the possibility of finding amicable solutions to problems. But the people of Gibraltar would never enter into any discussion or dialogue which might lead to the loss of their national identity. The United Nations, which had an obligation to protect the citizens of Gibraltar from discrimination and persecution, was doing nothing, although the country's leaders had been petitioning it for the past 37 years. The very name of the Committee, the Special Political and Decolonization Committee, was a reminder that it had not been created to refer the solution of the problem of Gibraltar to the United Kingdom and Spain. The kinds of solution those countries were proposing did not meet the interests of the people of Gibraltar, who wanted to determine their own future independently; that was one of the fundamental human rights recognized by the United Nations. To continue to disregard that fact was a breach of the most fundamental principle on which the Organization itself was based.

15. He had a number of serious questions for the Committee: why, for 37 years, had the United Nations not responded as it should have done, constantly referring the plea of the people of Gibraltar for help back to the countries Gibraltar was protesting against; why had the United Nations resolutely ignored the invitation to visit Gibraltar; and why did the representatives of Gibraltar never receive any concrete answers to their petitions and why could they not get any serious support from the United Nations. By its attitude to that question the United Nations was breaching fundamental articles of the Universal Declaration of Human Rights. It was not taking any action with respect to the United Kingdom and Spain,

which were Members of the United Nations and were breaching key provisions of its Charter. The spirit and unity of the people of Gibraltar, struggling for their inalienable right to determine their own future, would never be broken, and the inhabitants of Gibraltar would never give up their national identity, which their forefathers had fought to have recognized. The United Kingdom and Spain, as Members of the United Nations and the European Union, had a responsibility to respect the wishes of the people of Gibraltar, and the United Nations should use all available means to achieve the realization of those wishes, and thus fulfil its duty to support the people of Gibraltar in their lawful struggle for self-determination.

16. *Mr. Zammit withdrew.*

Question of Western Sahara

17. *At the invitation of the Chairman, Mr. López Ortiz (Federación Estatal de Instituciones Solidarias con el Pueblo Saharaui) took a place at the petitioners' table.*

18. **Mr. López Ortiz** (Federación Estatal de Instituciones Solidarias con el Pueblo Saharaui) said that it was important to take into account the fact that, in all the resolutions on the subject it had adopted since the end of the 1960s, the General Assembly had reaffirmed the need for the decolonization of Western Sahara on the basis of respect for the free exercise by the Saharan people of their right to self-determination and independence.

19. The Saharan people had, however, been unable to exercise that right in 1975 when the Government of Spain had allowed the armies of Morocco and Mauritania to occupy Western Sahara unlawfully. The unlawful redistribution of the Territory and its occupation, which were contrary to the resolutions of the United Nations and violated the rights of the Saharan people, recognized by the International Court of Justice, had impeded the holding of a referendum on the question of self-determination.

20. The armed conflict between the Frente POLISARIO and the Kingdom of Morocco, which had continued for 15 years, had been unable to resolve the problem. In the belief that negotiations and dialogue were the only way to settle the conflict and achieve a stable solution, the Security Council had adopted resolutions 658 (1990) and 690 (1991), which had provided for the holding of a referendum on the question of self-determination in January 1992.

21. Not only had the problem remained for nine years; it also threatened to turn into an armed confrontation and create a genuinely explosive situation with unpredictable consequences. Even the appointment of Mr. James Baker as Personal Envoy of the Secretary-General on the question of Western Sahara had been unable to remove the obstacles created by Morocco. However, thanks to the single-minded efforts of Mr. Baker and the United Nations Mission for the Referendum in Western Sahara, one of the key problems in relation to the referendum had been resolved: the Identification Commission had carefully prepared a list of participants in the referendum. For the first time a reliable list had been received, a list which had been prepared by the United Nations on the basis of criteria accepted by the Kingdom of Morocco and the Frente POLISARIO.

22. From the very beginning, Morocco had been pursuing a carefully thought out strategy aimed at ensuring the failure of the peace plan and preventing the holding of a referendum on the question of self-determination for the Saharan people. Those tactics were repeatedly resorted to by King Mohammed VI of Morocco and the Prime Minister and leadership of the Moroccan Government. Morocco agreed only to a referendum which would guarantee it control over Western Sahara. The lack of freedoms, as well as arbitrary arrests, torture and violations of human rights in the occupied territories were aimed solely at creating a climate of fear and terror similar to that which had been created a few years earlier in East Timor.

23. The United Nations was at a crossroads: it must take the necessary political and economic measures to convince the Government of Morocco that it should implement the peace plan, or it must acknowledge its inability to participate in the process, which would undermine confidence in the Organization and in part of the international community. The only stable and solid settlement which, without any doubt, would strengthen the situation in the region and bring peace was the creation of favourable conditions for the exercise by the Saharan people of their right to self-determination on the basis of a referendum with all the democratic guarantees and with the participation of observers to ensure the integrity of the process. The international community, in particular the United Nations and the European Union, had been too tolerant of the inflexible position of the Kingdom of Morocco with regard to the agreements that had been reached.

24. *Mr. López Ortiz withdrew.*

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

26. **Mr. Briones Vives** (International Association of Jurists for Western Sahara) said that recent reports of the Secretary-General on the question of Western Sahara referred to Morocco as the administering Power, but that that status should still be held by Spain since its obligations as the colonial Power were not time-limited but were still in force when it was a question of the exercise of the right to self-determination. Morocco was the occupying Power and was present in the Territory in violation of the principle prohibiting the use of armed force in accordance with the 1949 Geneva Conventions, in particular article 49 and subsequent articles of the fourth Geneva Convention which dealt with questions relating to military occupation. The occupation in no way provided for the transfer of sovereignty and did not change the status of the Territory. The occupation of East Timor by Indonesia and of the Gaza Strip and the West Bank by Israel might serve as examples since those countries were not considered colonial Powers. On the basis of the rules of law, Western Sahara was a Non-Self-Governing Territory which, in accordance with General Assembly resolution 2625 (XXV) of 24 October 1970, had a status which was quite separate and distinct from the territory of the State administering it and which existed until the people of the Non-Self-Governing Territory had exercised their right to self-determination in accordance with the Charter.

27. At the same time, in one of his recent reports, the Secretary-General had welcomed the declaration by the Government of Morocco of its readiness to propose or support the genuine and substantive transfer, in accordance with the rules of international law, of certain powers to all the inhabitants or former inhabitants of the Territory. That statement had serious consequences. The attempt to take the side of those who distorted the idea of holding a referendum on the question of self-determination created a real threat to the implementation of the principles and resolutions of the United Nations, particularly when it involved replacing the right to self-determination with a formula such as "the transfer of certain State powers", which was contrary to the basic principle of self-determination. Neither the Secretary-General nor the

Security Council was empowered, under the Charter of the United Nations, to introduce changes in the settlement plan, the aim of which was to give the Saharan people an opportunity to exercise their right to self-determination through the holding of a referendum. The Secretary-General and the Security Council could take a decision to discontinue the activities of a mechanism to ensure the implementation of the settlement plan, such as the United Nations Mission for the Referendum in Western Sahara (MINURSO), but they could not disregard the basic principle that determined the nature of the conflict, which was directly related to the process of decolonization. It was that principle which had served as the basis for the establishment of the Mission in Western Sahara and, regardless of whether the operations in the Territory were discontinued, the question of the Territory's decolonization would always appear on the agenda of the General Assembly and the Fourth Committee.

28. The latest report of the Secretary-General reproduced the text of the framework agreement on the status of Western Sahara, in which basically the interests of only one side, Morocco, were taken into account. Indeed, while in accordance with the settlement plan only the participants in the referendum identified by the United Nations as having the right to vote would make a choice between integration with Morocco and independence, in the proposed framework agreement the list of participants in the referendum who had already been identified was not taken into account and it was stated that in order to be qualified to vote in such a referendum a voter must have been a full-time resident of Western Sahara for the preceding one year. The international community must not allow the work done on the question of self-determination for Western Sahara over the past 40 years to come to nought; the aforementioned framework agreement not only did not further the settlement of the conflict but even exacerbated it.

29. *Mr. Briones Vives withdrew.*

30. *At the invitation of the Chairman, Ms. Badia Marti (Professor of International Law, Spain) took a place at the petitioners' table.*

31. **Ms. Badia Marti** (Professor of International Law, Spain) said that, in the light of the circumstances of the case, the international legal nature of the question of Western Sahara was not in doubt, since it

involved the principle of self-determination of peoples and the principle of peaceful settlement of international disputes. That legal question had been considered in the United Nations for 45 years, during which attempts had been made to evade application of the recognized rights of colonial peoples by virtue of the principle of self-determination, from which were derived obligations extending not only to the colonial Power, in that case Spain, but also to third States.

32. A situation had arisen in which the question of Western Sahara could not be considered strictly in the context of the decolonization process. For that reason, the settlement plan drawn up by the Secretary-General resembled the peace plans in existence in Central America and southern Africa in the same period. However, the controversy under discussion was not the same as the crisis situations in the above-mentioned regions and, in that sense, it should be remembered that the process for resolving the Western Sahara question was developing in two directions. Firstly, the question of the application of the principle of self-determination must be resolved and in that regard the United Nations had a series of responsibilities, since control of the application of that principle was within its sphere of competence. In that connection, the central core of its actions would focus on holding a referendum, monitoring the whole electoral process and organizing and implementing it. Secondly, the fact that Western Sahara was an occupied territory and thus protected by international humanitarian law, principally the provisions of the fourth Geneva Convention of 1949 concerning protection of the civilian population in time of war, imposed an obligation on the occupying Power to protect the population of the territory. It must be recalled that Morocco was a party to that Convention. Those two legal aspects — one deriving from the principle of self-determination and another deriving from the provisions of the 1949 Geneva Convention — were the basic elements of the peace process and, as such, must comply with the parameters of the principle of the peaceful settlement of disputes. The facts showed that the United Nations, as the traditional interlocutor and sole guarantor of decolonization process, was obliged to require the participation of the occupying Power in order to eliminate the obstacles to the holding of a referendum and consequently to obtain the support of the parties for the settlement plan. That meant that the process would be paralysed time after time. However, the United Nations operated on the assumption that the question of Western Sahara was a

self-determination process in which the participation of both sides — occupying Power and colonial peoples — was necessary. Nevertheless, there had been no assumption of any legally binding obligations and third parties had not been approached to act as guarantors in the application of the settlement plan. In the settlement of the Western Sahara question, it was necessary to abide by international norms: the principle of self-determination of peoples; the provisions of the fourth Geneva Convention of 1949 on protection of the civilian population in time of war, and especially its articles concerning protection of the civilian population in occupied territories; and the principle of peaceful settlement of disputes in accordance with the Charter of the United Nations.

33. *Ms. Badia Martí withdrew.*

34. *At the invitation of the Chairman, Mr. Barragan Cabrera (Deputy to the Parliament of the Canary Islands) took a place at the petitioners' table.*

35. **Mr. Barragan Cabrera** (Deputy to the Parliament of the Canary Islands) said that the text of the framework agreement on the status of Western Sahara, annexed to the Secretary-General's report of 20 June 2001 (S/2001/613), was an obvious attempt to give preference to one of the parties to the conflict, which was trying to achieve integration — namely the Kingdom of Morocco. In his opinion, the idea of implementing the framework agreement should be abandoned and efforts should continue to implement the settlement plan; despite problems with the implementation of its provisions, the plan had resulted in a cease-fire which had already held for ten years. In addition, the plan had made possible significant advances in the solution inter alia of problems connected with prisoners of war, preparations for the process of registration of Saharan refugees and establishment of direct contacts between the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (Frente POLISARIO).

36. It should be noted that, following the appointment of the Secretary-General's Personal Envoy James A. Baker III in March 1997, Morocco and the Frente POLISARIO had in April and May 1999 unofficially approved the operational protocols and guiding principles for the completion of the identification process and lodging of appeals, whereby identification should be completed by the end of 1999. In that

connection, he could not understand why Morocco was questioning the identification process, submitting a total of 131,038 appeals and trying to correct protocols previously adopted by the parties concerning the lodging of appeals in a manner which favoured its interests. In addition, it appeared from the numerous United Nations reports and resolutions, in particular the Secretary-General's report of 20 June 2001, that the Frente POLISARIO, unlike the Kingdom of Morocco, was continuing to support the provisions of the settlement plan. In that connection, he announced on behalf of the Parliament of Spain that the only mechanism creating the possibility of a peaceful settlement of the conflict was the United Nations, acting on the basis of the settlement plan.

37. The Saharans were entitled to establish their own State in the territory of Western Sahara, if they so decided in a referendum. He expressed deep concern about the existing situation in Western Sahara and called on members of the Committee to redouble their efforts to decide the fate of the Saharan people and the territory where they lived on the basis of the settlement plan, by peaceful means — by the holding of a referendum, the outcome of which would put an end to that protracted conflict.

38. *Mr. Barragan Cabrera withdrew.*

39. *At the invitation of the Chairman, Mr. Alonso Rodríguez (Human Rights League of Spain) took a place at the petitioners' table.*

40. **Mr. Alonso Rodríguez** (Human Rights League of Spain) said that the settlement plan for Western Sahara was deadlocked. A referendum on self-determination for the Saharan people was being postponed, and in the light of the development of the conflict, there was little hope that it would proceed. The implementation of the settlement plan was apparently being stalled by a huge number of appeals made by Morocco regarding the initial voter list for the referendum on the question of self-determination: there had been 130,000 appeals regarding 86,386 potential voters included in the list. There were sufficient grounds to treat those appeals as a violation of the spirit and letter of the settlement plan.

41. It was deeply disquieting that the United Nations, which had been involved in the self-determination process, jointly with the Organization of African Unity, and had adopted over 30 resolutions supporting it, had come to share the view that the legal process should be

abandoned in favour of an alternative policy supporting the incorporation of Western Sahara into the Kingdom of Morocco. There was a serious risk that the right of peoples to self-determination would be replaced by vague formulas which would establish the future of the Saharan people in advance, without prior consultation with them, contrary to the principles and resolutions of the United Nations itself. It was also worrying that recently Morocco had begun to describe itself as “the Power administering Western Sahara”, when Morocco could not be regarded as anything other than the occupying Power. Western Sahara was a Territory with a specific international legal status: until the process of decolonization was completed, it would be a Non-Self-Governing Territory.

42. In the interests of implementing the major aim of the settlement plan, the Human Rights League of Spain recommended that the Secretary-General should call for urgent examination of most of the appeals lodged, and that those considered to be without sufficient legal basis should be rejected as invalid. The view of the Human Rights League of Spain on giving the Saharan people a degree of autonomy within the Kingdom of Morocco was that it was not an option; the only possible solution was a referendum. Even if there were international mechanisms working to put an end to violations of the human rights of the Saharan people living in occupied Western Sahara, those rights would never be fully protected until the Saharan people had exercised their right to self-determination through a free, fair and transparent referendum. Finally, the illegal exploitation of Western Sahara’s natural resources by the occupying Power, the Kingdom of Morocco, was a matter of concern.

43. *Mr. Alonso Rodríguez withdrew.*

44. *At the invitation of the Chairman, Mr. Mayol i Raynal (Member of the European Parliament) took a place at the petitioners’ table.*

45. **Mr. Mayol i Raynal** (Member of the European Parliament), speaking on behalf of the Intergroup of the European Parliament on Peace for the Saharawi People, which supported the Saharans’ legal right to self-determination, said that recent United Nations action had gone against the declared aims and international opinions reflected in all the United Nations resolutions on Western Sahara. The proposed framework agreement had no basis in international law, and would jeopardize the settlement plan and the referendum on

self-determination. On the pretext of giving Western Sahara a degree of autonomy, the proposed agreement would force its incorporation into the Kingdom of Morocco, the occupying Power. The Frente POLISARIO had naturally rejected the proposal.

46. The truth was that the attempt to renounce the settlement plan in that way was completely contrary to the principles underlying the Charter of the United Nations. The Security Council resolution that had eventually been adopted was inconsistent: on the one hand, it extended the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) until 30 November 2001, but on the other hand, it proposed that consultations on the framework agreement should continue, even though it was well known that the Frente POLISARIO had rejected it as a basis for negotiation. Because no referendum had in fact taken place, Mr. James Baker III, the Personal Envoy of the Secretary-General, had merely agreed with Morocco’s proposal to give Western Sahara a degree of autonomy and hold a referendum after five years.

47. Contrary to the assertions of Morocco, MINURSO had undertaken the important task of compiling the list of voters which provided the basis of the settlement plan. That meant that, with the necessary political will, a referendum could be held even the following day. The United Nations should keep a close watch on a number of issues, including the serious violations of the human rights of Saharans living in the occupied territories, including arbitrary detention, torture and other forms of mistreatment of civilians by the Moroccan security forces, the lack of freedom of movement, the release of Moroccan prisoners of war, and the humanitarian crisis in the refugee camps. The only solution to the current situation was not to find some “third way” which would probably lead only to renewed fighting, but strict and comprehensive implementation of the settlement plan and the holding of a free and transparent referendum on the question of self-determination.

48. *Mr. Mayol i Raynal withdrew.*

49. *At the invitation of the Chairman, Mr. Boukhari (Frente POLISARIO) took a place at the petitioners’ table.*

50. **Mr. Boukhari** (Frente Popular para la Liberación de Saquia el-Hamra y de Río de Oro (Frente POLISARIO)) said that the question of Western Sahara

remained on the agenda of the General Assembly as a problem of decolonization. In 1975, Morocco, in violation of the resolutions of the United Nations and the judgement of the International Court of Justice, had invaded and occupied the Territory militarily with the aim of annexing it, an aim which neither the Saharan people nor the international community had ever accepted. Following an armed conflict which had continued for over 16 years, the two parties — the Frente POLISARIO and the Kingdom of Morocco — had in 1990 accepted a settlement plan drawn up by the United Nations and the Organization of African Unity with a view to the peaceful settlement of the conflict through the holding of a free and fair referendum on self-determination, which would allow the Saharan people to choose between independence and integration with the occupying Power. To that end, the Security Council had authorized the dispatch to the Territory of the United Nations Mission for the Referendum in Western Sahara (MINURSO). In September 1991, a ceasefire agreement had entered into force and it was planned that the referendum would take place in February 1992. In December 1991, Morocco had broken away from the settlement plan by imposing on the United Nations a substantial modification of the clause concerning the participants in the referendum, which had led to a delay in the whole process. In September 1997, under the auspices of Mr. James Baker III, the Personal Envoy of the Secretary-General, the two parties had signed the Houston agreements, which had laid the foundations for the peace process.

51. In February 2000, MINURSO had published the results of the voter identification operation for the referendum. All that remained was to apply the remaining phases of the settlement plan and set a specific date for the holding of the referendum in the autumn of 2000. However, as a result of Morocco's obstructionist tactics, that was not achieved. When it had concluded that the referendum on self-determination would lead to the independence of Western Sahara, Morocco had decided to halt the process of the implementation of the settlement plan and the Houston agreements. Resort to the appeals procedure was only a pretext, since a solution to what was a technical problem had been foreseen in time and was to be found in the protocols and directives which the United Nations had negotiated with the two parties in April 1999. It should also be noted that the determination of the United Nations, which was a key factor in ensuring the success of the process, had failed

precisely at the point when, thanks to the completion of the work on voter identification, decisive progress had been made towards the ultimate goal. Since then, Morocco had been pressing the United Nations to seek other solutions which were contrary to international law and in open opposition to the letter and spirit of the settlement plan.

52. At the Berlin meeting between the two parties in September 2000, a meeting which took place under the auspices of Mr. Baker, Morocco had removed its mask completely and openly proclaimed the end of its cooperation with the settlement plan, declaring that it was amenable only to a political solution which would confirm in advance Morocco's sovereignty over Western Sahara. That was the so-called "third way". Its purpose was to find a way to legitimize a process whereby, contrary to the principle of self-determination and the settlement plan, the future of a people which had struggled so hard and for so long for freedom would be determined beforehand. The Frente POLISARIO therefore considered the "third way" unacceptable since it was not in keeping with the settlement plan, and in June 2001 it had informed the Secretary-General of the United Nations and his Personal Envoy accordingly. In the light of those developments and once again reaffirming its adherence to the settlement plan for Western Sahara proposed by the United Nations and the Organization of African Unity, in June 2001 the Frente POLISARIO had presented to the Secretary-General a set of proposals designed to assist in overcoming the obstacles, real or artificial, which were used as a pretext to delay the holding of the referendum at the time planned. If those proposals, which were in keeping with the settlement plan, were given honest and objective consideration, the Secretary-General and the Security Council would be able to use them to move the process of the implementation of the settlement plan forward. The Frente POLISARIO believed that new approaches could and should be used to overcome the obstacles which were delaying the process of the implementation of the settlement plan, but such efforts should be in keeping with, and not contrary to, the settlement plan.

53. The problem of the decolonization of Western Sahara, which had been pending since the 1960s, was a case in which the authority of the United Nations and the seriousness of the commitment of its Member States, as reflected in an impressive number of resolutions, were being put to the test. There was no

doubt that Morocco wanted the question of Western Sahara to be an exception to the general rule on decolonization. The Frente POLISARIO was, however, convinced that an overwhelming majority of States would not allow the principle of self-determination to be sacrificed in order to legitimize the annexation of another's territory by force in the twenty-first century.

54. The Frente POLISARIO appealed to Morocco, which was now the principal obstacle in the way of peace, to respect the commitments it had made upon accepting the settlement plan. It urged the United Nations to continue the efforts it had been making since the 1960s in order to bring about a peaceful solution to a decolonization conflict and allow the Saharan people to exercise their right to self-determination. The search for other ways should be conducted only on the basis of its demonstrated limits. The solutions proposed in the draft framework agreement were unjust, unacceptable and unrealizable. The time had come to return to the settlement plan and to implement it strictly and resolutely since that was the responsibility incumbent on the United Nations with respect to the decolonization of Western Sahara in accordance with its Charter.

55. *Mr. Boukhari withdrew.*

Organization of work

56. **The Chairman** said that, in accordance with the Committee's programme of work, consideration of questions concerning decolonization and related questions would be concluded on Tuesday, 16 October 2001. In that connection and in accordance with the understanding reached at the previous meeting, he informed the members of the Committee that it was his intention that decisions on all the draft resolutions and decisions submitted under agenda items concerning decolonization and related questions, namely agenda items 18, 91, 92, 93 and 12 and 94, would also be taken on Tuesday, 16 October 2001. If he heard no objection, he would take it that the Committee agreed to that procedure.

57. *It was so decided.*

The meeting rose at 12.40 p.m.