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SPECIAL COMMITTEE ON THE SITUATION WITH REGARD TO THE
IMPLEMENTATION OF THE DECLARATION ON THE GRANTING OF
INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

SUMMARY RECORD OF THE 1487th MEETING

Held at Headquarters, New York,
on Monday, 29 June 1998, at 3 p.m.

Chairman: Mr. RODRÍGUEZ PARILLA (Cuba)
(Acting Chairman)

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

ADOPTION OF THE AGENDA

1. The agenda was adopted.

QUESTION OF GIBRALTAR (A/AC.109/2112)

2. The CHAIRMAN informed the Committee that the delegation of Spain had indicated that it wished to participate in the Committee's consideration of the item. In accordance with established practice and in the absence of any objection, he would take it that the Committee wished to accede to that request.

3. It was so decided.

4. At the invitation of the Chairman, Mr. Pérez-Griffo (Spain) took a place at the Committee table.

5. The CHAIRMAN informed the members of the Committee that he had received a communication from the Chief Minister of Gibraltar asking to address the Committee on the item. In accordance with standard procedure and in the absence of any objection, he would take it that the Committee wished to accede to that request also.

6. It was so decided.

7. At the invitation of the Chairman, Mr. Caruana (Chief Minister of Gibraltar) took a place at the petitioners' table.

8. Mr. CARUANA (Chief Minister of Gibraltar) recalled the history of the issue to the members of the Committee. As was well known, Gibraltar had been a possession of the United Kingdom since 1704. Gibraltar had been ceded to the United Kingdom by Spain in the Treaty of Utrecht in 1713 and by several subsequent treaties. Currently, Gibraltar was a British Overseas Territory. In the 294 years that Gibraltar had been a British possession, a unique people with its own culture had developed. Gibraltarians themselves elected the executive branch of their Government, the Council of Ministers, with jurisdiction over a wide range of internal self-government issues except for external affairs, security and defence. Before coming under British authority, Gibraltar had been Spanish for a total of 266 years, though not continuously, and before that Moorish for 727.

9. Spain's position was also well known. Spain maintained that because Gibraltar had been taken from it by Great Britain in 1704, Gibraltar was still Spanish territory and the people of Gibraltar had no rights over their homeland or to self-determination. Spain regarded the question of Gibraltar as a bilateral issue between the United Kingdom and Spain and expected the United Kingdom, as the administering Power, to deny Gibraltarians the right to self-determination, with United Nations support.

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10. The people of Gibraltar found Spain's position incomprehensible. How long did it take to acquire the rights given to colonial peoples under the Charter of the United Nations? Other formal colonial peoples, such as those of the United States, Australia, Canada, New Zealand and all the Caribbean countries, had exercised their right to self-determination after a much shorter time under colonial dominion. All those countries had, like Gibraltar, once been colonies. On the eve of the twenty-first century, the rights of a people could not be sacrificed to a desire to right 300-year-old wrongs.

11. In the past, Spain had attempted to discredit the very idea of recognizing the people of Gibraltar. Its authorities had alleged that the population of Gibraltar was involved in drug trafficking and money-laundering, that it was polluting the environment, that it was no more than a group of displaced persons brought in to work at the military base and that it did not have a viable economy. None of those allegations was true, but even if they were they would have nothing to do with the self-determination issue.

12. Gibraltar had a thriving, self-sufficient economy. There were 6 million tourists a year. Gibraltar was one of the most strictly regulated offshore financial centres in the world. Its port had one of the most conveniently situated ship-repair facilities and the largest bunkering terminal in the Mediterranean. Gibraltar was expanding rapidly into new forms of productive activity in the manufacturing and telecommunications sectors. The United Kingdom's military presence in Gibraltar was dwindling rapidly. He invited members of the Special Committee who doubted the truth of those statements to visit Gibraltar to see for themselves. In previous years, the administration of Gibraltar had on many occasions adduced political and legal arguments that Gibraltarians did have the inalienable right to self-determination despite Spain's unjustified contentions. The principle of territorial integrity upon which Spain relied bore no relation to the case of Gibraltar because Gibraltar was not trying to secede from Spain and, moreover, could not because it was not part of Spain. In international law the principle of retrocession of territory did not apply in a decolonization context. By a ruling of the International Court of Justice, even where there was a territorial dispute the freely expressed will of the people was the main foundation for decolonization. Similarly, under international law and United Nations doctrine there was no alternative to the principle of self-determination in the process of decolonization, and that applied to all Non-Self-Governing Territories without exception. Gibraltar was just such a Non-Self-Governing Territory. Gibraltar was on the United Nations list of Non-Self-Governing Territories. The people of Gibraltar were seeking to achieve decolonization by modernizing their constitutional relations with the United Kingdom while maintaining political and constitutional links with it. At the same time, Gibraltar was seeking to maintain good-neighbourly relations with Spain, which should be a natural friend and ally of its people. Nevertheless, Spain could have no formal role in Gibraltar's decolonization: the future status of Gibraltar was a question exclusively for the administering Power and for the people of Gibraltar, who had the right freely and democratically to choose their status, in exercise of their right to self-determination.

13. In seeking a clear recognition from the United Nations of Gibraltar's right to self-determination, the people of Gibraltar were aware that there were

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obstacles, difficulties and practical limitations that could impede the exercise of that right. However, such practical obstacles and difficulties could not prejudice the existence of the right itself, which was established in many United Nations resolutions and other legal texts.

14. He had actively sought to arrange a meeting with the Minister for Foreign Affairs of Spain to hold a dialogue on ways to break the current impasse. The dialogue should be aimed at eliminating tension and mistrust from the relationship between Gibraltar and Spain and should seek to bring about mutually beneficial cooperation and good-neighbourliness in economic, environmental, social, cultural, judicial and law-enforcement matters. In the process of that dialogue the parties would set out their positions and acknowledge their differences on many issues. However, it was more important to explore the possibilities for a new and better relationship. Recently, the Spanish Minister for Foreign Affairs had signalled that the Spanish Government had agreed that such a meeting should take place; indeed, the current year's General Assembly working paper on Gibraltar made reference to such a meeting. He expressed his readiness to meet the Spanish Minister for Foreign Affairs on any date convenient to the Minister.

15. On 10 December 1997, the Spanish Minister for Foreign Affairs had delivered a paper to his counterpart in the United Kingdom which, apart from setting out Spain's traditional position, contained a ground-breaking statement on the United Kingdom Government's commitment not to transfer sovereignty over Gibraltar contrary to the wishes of the people of Gibraltar. According to the statement, the Spanish Government recognized that the United Kingdom's commitment not to transfer sovereignty was an obstacle for Spain because, as a democratic State, Spain could not conceive of forcibly solving the sovereignty problem against the wishes of the citizens of Gibraltar who would be affected by a new situation of sovereignty. That new approach showed that Spain had accepted the principle of consent and was a most welcome first step in the right direction. Spain could not at one and the same time call itself a democratic country and deny the right of the colonial people of Gibraltar to one of the most fundamental aspects of democracy, the right to self-determination. On the eve of the twenty-first century, it was not possible to aspire to eighteenth-century solutions just because the problem had arisen in the eighteenth century.

16. A genuine commitment to the principle of consent meant that Spain must allow Gibraltar to develop in freedom without political, economic, social, cultural or other forms of pressure. However, under Spain's current policy, which was aimed at isolating Gibraltar, the reverse was true.

17. There were many examples of Spain's policy of pressure. First, within the European Union Spain continued to try to block any measures aimed at confirming the existence of a separate administrative and legal system in Gibraltar, and that impeded Gibraltar's development. Communications between Spain and Gibraltar were constrained on land and blocked by air and sea. Also, Spain sought to prevent any extension of self-government in Gibraltar. Such measures on the part of Spain were not consistent with the principle of consent, and in that connection he recalled a statement by the Spanish Minister for Foreign Affairs in November 1997 to the effect that if Gibraltar did not toe the line, Spain would tighten the screws. Actions of that kind would be flagrant breaches

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of Spain's obligations under the Charter of the United Nations and under international law.

18. In seeking ways towards a possible settlement of the dispute over Gibraltar, the Spanish Foreign Minister had spoken of the changing concept of sovereignty in Europe as power was delegated from individual nation-States to the European Union and decentralized to autonomous regions and provinces, in which context he had offered self-government for Gibraltarians and preservation of their separate judicial system provided there was agreement on transitional joint sovereignty between the United Kingdom and Spain, with an eventual transfer of sovereignty to Spain.

19. The Gibraltarian people rejected the Foreign Minister's proposal. Spain must recognize Gibraltar's right to express its democratic will. The people of Gibraltar had suffered many years and borne many sacrifices to achieve their current level of self-government and independence from the administering Power. They had already succeeded in eliminating most of the hold-overs of colonialism, and they wanted to go further along that road. Obviously, the Spanish Minister for Foreign Affairs was not fully aware of how much self-government Gibraltar already enjoyed: it already enjoyed more de facto autonomy than Spain's autonomous regions, and it did not want to be part of Spain, although it did want to have friendly relations with it.

20. The Foreign Minister's proposals were therefore not new: they were very similar to the 1984 proposals, and were not acceptable to the people of Gibraltar. The best way of determining the will of the people of Gibraltar, today or in any foreseeable future, was by referendum in Gibraltar itself.

21. He regretted that the many pleas by the people of Gibraltar to the Special Committee to recognize their inalienable right to self-determination had gone unanswered and that as a result the Fourth Committee had annually adopted a so-called consensus resolution calling for continuation of the fruitless bilateral dialogue between the United Kingdom and Spain. Gibraltar took no part in that dialogue: participation in such a purely bilateral dialogue, in which Gibraltar itself had no political weight whatsoever, would signify recognition of Spain's argument whereby the people of Gibraltar had no right to their homeland which, in Spain's view, was just a piece of Spanish territory under United Kingdom occupation.

22. The Special Committee's business was to assist the peoples of Non-Self-Governing Territories and protect their rights. Although there were other United Nations bodies charged with seeking consensus between parties to disputes, that was not the case for the Special Committee, which existed exclusively to declare and uphold the rights of the peoples of Non-Self-Governing Territories and assist them in the exercise of those rights.

23. He strongly urged the members of the Special Committee to demonstrate to the critics and sceptics that it was not played out and that it continued to have a vital role in the fate of the remaining 17 Non-Self-Governing Territories on its own list. He therefore called on the Special Committee to break away from the tired old text of the so-called consensus resolution which did not take into account the people of Gibraltar, whose rights the Special Committee was

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duty bound to uphold. On behalf of the people of Gibraltar, he called on the Special Committee to declare that the people of Gibraltar had the inalienable right to self-determination and urged it not to adopt any resolution that did not recognize that right and the right of the people of Gibraltar to a separate voice in any talks relating to their homeland.

24. Mr. Caruana withdrew.

25. Mr. PÉREZ-GRIFFO (Spain) said that judging by the nature of the statements by the Chief Minister of Gibraltar at the United Nations in recent years, they had a single goal: to change the United Nations position on the question of Gibraltar. Gibraltar's leaders should keep in mind that the United Nations position on the issue had remained unchanged in the way it was reflected in the relevant resolutions that the General Assembly had adopted over a number of years. Prima facie, it seemed strange that a representative of a Non-Self-Governing Territory should not criticize the policy of the colonial Power when speaking in the Special Committee, the main forum for decolonization issues. The reason was quite simple, however: the representatives of Gibraltar, who for many years had spoken out in favour of self-determination, were now advocating maintenance of the colonial Power's sovereignty over the Territory.

26. The United Nations position on the question of Gibraltar was reflected in a large number of General Assembly resolutions in which the United Nations unambiguously stated that the principle of territorial integrity was fully applicable in the decolonization of Gibraltar.

27. He reaffirmed his previously stated opinion that Gibraltar was a colony, but its current inhabitants could not call themselves a colonial people as they were the descendants of those who had been brought to the Territory by the colonial Power to work at the military base. That opinion had been supported in its time by the British Governor of Gibraltar himself, and for the self-same reason the General Assembly, in its resolution 2353 (XXII) of 19 December 1967, had declared the holding of the referendum in Gibraltar to be in contravention of the provisions of General Assembly resolution 2231 (XXI) of 20 December 1966 and those of the resolution adopted on 1 September 1967 by the Special Committee.

28. For Spain, restoration of its sovereignty over Gibraltar was of indisputable importance; its claims were firstly for the restoration of its sovereignty over the Rock of Gibraltar, which Spain had been obliged to cede under the Treaty of Utrecht, and secondly for the return of the isthmus to the north of Gibraltar, which was being illegally occupied by the United Kingdom. The right to British sovereignty over the Rock of Gibraltar was secured under article X of the Treaty of Utrecht, which ruled out any variation of the status of the Territory, including independence, which had not been agreed with Spain. Thus, under the Treaty Gibraltar could be either British or Spanish, and Spain would oppose any initiative aimed at breaching that provision of the Treaty.

29. The question of Gibraltar could be resolved in one of two ways: through talks which must necessarily end Gibraltar's colonial status or by maintaining the status quo, which would benefit none of the parties. Spain was resolutely in favour of dialogue, and at the most recent meeting of the Foreign Ministers

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of Spain and the United Kingdom had made an official proposal to the British Government which could be summarized in three main points.

30. First, a judicial regime for Gibraltar had been suggested that proposed extending to the inhabitants of Gibraltar the rights and freedoms guaranteed under the Spanish Constitution, protection for Gibraltar's special linguistic and cultural features, which had Spanish roots, developing Gibraltar's status, which would include defining a range of powers for the Government of Gibraltar in accordance with article 148 of the Spanish Constitution, creating institutions of self-government in the Territory and establishing a special economic regime that would include recognition by Spain of the current specific features that determined Gibraltar's status in the European Union context. Second, Spain was prepared to hold talks on a privileged regime for Gibraltarians to obtain citizenship whereby they would be able to choose Spanish or British citizenship or even dual citizenship. Thirdly, Spain was prepared to agree to a transitional period during which sovereignty over the Territory would be exercised jointly by Spain and the United Kingdom. The proposal was designed to take into account the desire on the part of the Gibraltarian authorities to achieve constitutional reform that would not signify a break with the British Crown. Spain was currently awaiting a response to its proposal.

31. Mr. Pérez-Griffo (Spain) withdrew.

32. The CHAIRMAN suggested that the Special Committee should continue its consideration of the question of Gibraltar at its next session, subject to any directives that the General Assembly might give at its fifty-third session, and that to facilitate consideration of the item by the Special Political and Decolonization Committee all the relevant documentation should be transmitted to the General Assembly.

33. It was so decided.

DISSEMINATION OF INFORMATION ON DECOLONIZATION (A/AC.109/2119; A/AC.109/L.1872)

34. Ms. MARKHAM (Department of Public Information) introduced the report of the Department of Public Information on the dissemination of information on decolonization during the period from May 1997 to June 1998 (A/AC.109/2119).

35. Ms. MALDONADO (Department of Political Affairs) said that document A/AC.109/2119 contained detailed information about the Secretariat's activities in the area of dissemination of information on decolonization. The Department of Political Affairs had continued to work closely with the Department of Public Information on ensuring the widest possible dissemination of information on decolonization, particularly since the establishment of the Decolonization Unit.

36. Pursuant to General Assembly resolution 52/79, the Department of Political Affairs had endeavoured to collect and prepare information on decolonization issues, had sought the cooperation of the administering Powers in that regard and had continued to provide information on the activities of the United Nations in the field of decolonization.

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37. The Department had also disseminated information on the basis of personal contacts by its political officers with experts on Non-Self-Governing Territories and representatives of non-governmental organizations. The Department had benefited in that respect from the Special Committee's regional seminars, which had allowed the Department's secretariat to consolidate its contacts with such experts and non-governmental organizations.

38. The Department of Political Affairs, in close cooperation with the Department of General Assembly Affairs and the Department of Public Information, had ensured that documentation on decolonization issues was circulated, particularly at regional seminars away from Headquarters.

39. The Department had prepared material on decolonization for United Nations publications. Currently, it was cooperating with the Department of Public Information on preparing the relevant chapters for the 1997 Yearbook of the United Nations. The chapter on decolonization covered a wide range of issues and included information on the action taken by the General Assembly, the Security Council and the Economic and Social Council.

40. The Department of Political Affairs would maintain contact with regional and intergovernmental organizations in the Caribbean and Pacific regions and seek out their views on problems affecting the Non-Self-Governing Territories. She reaffirmed that the Department would continue to fulfil its responsibilities in respect of the dissemination of information, in cooperation with the Department of Public Information. Consultations with her Department's colleagues in the Department of Public Information had identified a number of possibilities which the two Departments intended to put into practice while making optimum use of the available resources.

41. Mr. TANOH-BUCHOUÉ (Côte d'Ivoire) said that judging by his own experience there was a widespread opinion amongst some circles in the global audience that the issue of decolonization was already dead. It would be interesting to know what kind of work the Department of Public Information was doing on providing information on decolonization to major, influential mass media with large audiences so as to give the problem the maximum exposure.

42. Ms. MARKHAM (Department of Public Information) said that national information organizations in various parts of the world were broadcasting United Nations radio programmes in various languages, while television programmes were also going out over the relevant distribution networks. Printed materials were being distributed through the United Nations Information Centres and through various publications such as Basic Facts about the United Nations and the UN Chronicle. Work was being done also through the new information carrier, the Internet. The Department of Public Information was also receiving various enquiries over the Internet which were answered by its Reference Unit. The Department thus dealt with the decolonization issue quite broadly.

43. Mr. HALDER (Fiji) said that information on decolonization was undoubtedly being disseminated by the Department of Public Affairs. However, in his travels and conversations he had often come across situations where no one had heard of the Department's programmes. Also, in some countries, particularly small, developing countries, many families not only had no computer, they did not even

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have a television. He was therefore interested in whether the Department was following up on whether its information output was being used by the mass media and, if it was used, how it was being used: were programmes being broadcast at the best time of day, and so on?

44. Ms. MARKHAM (Department of Public Information) said that she did not have information immediately available to enable her to give an exact answer to the previous speaker's specific question. However, the Department of Public Information did have a unit that tracked the usage of its information output and the effectiveness of that usage. She undertook to provide figures at a future meeting.

45. The CHAIRMAN drew attention to the draft resolution contained in document A/AC.109/L.1872. In the absence of any objection, he suggested that the Special Committee should adopt it.

46. Draft resolution A/AC.109/L.1872 was adopted.

INFORMATION FROM NON-SELF-GOVERNING TERRITORIES TRANSMITTED UNDER ARTICLE 73 e OF THE CHARTER OF THE UNITED NATIONS (A/AC.109/L.1873)

47. The CHAIRMAN, speaking on behalf of the Special Committee, expressed his gratitude to the administering Powers that had provided information under Article 73 e of the Charter, as that information was necessary if the situation in the Non-Self-Governing Territories was to be considered thoroughly.

48. He drew the Special Committee's attention to draft resolution A/AC.109/1873.

49. Mr. OVIA (Papua New Guinea) requested clarification concerning the aide-mémoire of 26 June according to which the administering Powers had provided no information on New Caledonia, Western Sahara and East Timor, and asked what the practice was in such cases.

50. Ms. MALDONADO (Department of Political Affairs) referred to the footnotes on New Caledonia and East Timor in the aide-mémoire. The footnotes contained information on the situation regarding the transmission of information by the administering Powers.

51. Mr. OVIA (Papua New Guinea) expressed thanks for the clarification and said that in the case of East Timor the situation was clear to him. However, in the case of New Caledonia he could not understand why the administering Power had not provided information, and in that connection referred to the Matignon Accords and the subsequent Noumea Accord. He was interested in the French Government's position on the Noumea Accord and its programme in the area of self-determination for the people of New Caledonia.

52. Mr. LEGOWO (Indonesia) recalled that Portugal - the colonial Power - had left East Timor in 1975, incapable of stopping the civil war that was breaking out. For that reason, the majority of East Timor's inhabitants had decided on their own to carry out their own decolonization and had declared East Timor's independence by joining Indonesia.

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53. Ms. NEVES (Portugal), speaking in exercise of the right of reply, said that "the majority of East Timor's inhabitants" to which the representative of Indonesia had referred had actually been 37 people who had signed a declaration. Thus, what the representative of Indonesia had said had nothing to do with the work of the Special Committee, and the fact that the decolonization of East Timor remained on the Special Committee's agenda showed that the issue had not been resolved, as Indonesia - the current colonial Power - was not allowing the people of East Timor to express their will as to their own future.

54. Mr. LEGOWO (Indonesia) expressed his delegation's surprise at Portugal's affirmation that it was the administering Power, whereas Portugal had irresponsibly left East Timor while a civil war was in full swing.

55. Mr. HU Zhaoming (China) supported the remarks of the representative of Papua New Guinea and expressed the view that insufficient information had been received; he hoped that the Special Committee would postpone the adoption of a resolution on the issue.

56. The CHAIRMAN suggested that consideration of the item should be deferred pending further consultations.

57. It was so decided.

QUESTION OF SENDING VISITING MISSIONS TO TERRITORIES

58. The CHAIRMAN said that he had been holding consultations with administering Powers on the question of sending visiting missions to Territories. More time would be needed to conclude those consultations successfully, and he therefore suggested that the Special Committee should defer consideration of the item.

59. It was so decided.

REQUESTS FOR HEARINGS

60. The CHAIRMAN drew attention to requests from petitioners to take part in the hearings on Western Sahara, East Timor and the Falkland Islands (Malvinas).

61. Mr. LEGOWO (Indonesia) said that his delegation was against the hearings on East Timor on the basis that East Timor, having united with Indonesia, had accomplished its own decolonization. His delegation requested that its position should be reflected in the record of the meeting.

62. The CHAIRMAN said that the remarks by the representative of Indonesia would be reflected in the record. In the absence of further comments, he would take it that the Special Committee wished to accede to the requests it had received.

63. It was so decided.

The meeting rose at 4.45 p.m.