

Annex III

Results of the fourth round of direct talks
Houston, Texas, 14-16 September 1997

I. DECLARATION OF THE PARTIES

1. The Parties agree to comply with their commitments as regards the identification process, repatriation of refugees, prisoners, detainees, confinement of their respective troops as well as the code of conduct for the referendum campaign.
2. The Parties understand and agree that the United Nations is required by the settlement plan to organize and conduct a referendum that is free, fair and transparent and free from all constraints, both for participants and accredited observers. They also understand and agree that the Special Representative of the Secretary-General will set the start of the referendum campaign when he is satisfied that all such conditions are met.
3. Accordingly, the Parties agree that the powers and authorities of the United Nations during the transitional period, as described in the settlement plan, and during the referendum campaign, as described in the code of conduct, shall apply to ensure, among other things, that there shall be complete freedom of speech and assembly, and of the press, as well as freedom of movement of personnel and property into, out of and within the Territory, thus creating a climate of public tranquillity within which a referendum free of all constraints, intimidation and harassment can be organized and conducted by the United Nations.
4. The Special Representative of the Secretary-General shall be authorized to issue regulations prohibiting graft, fraud, intimidation or harassment which could interfere with the organization and conduct of a free, fair and transparent referendum, and shall likewise be authorized to require that all Parties shall have equal access to all television and radio facilities for the purpose of broadcasting their respective views on the referendum. Television and radio facilities shall be made available at United Nations expense to the Special Representative of the Secretary-General to the extent he deems appropriate, in order to disseminate publicly information about the referendum in order to inform all eligible voters about their rights and obligations.

II. CODE OF CONDUCT FOR THE REFERENDUM CAMPAIGN IN
WESTERN SAHARA

Having regard to resolution 658 (1990), by which the Security Council approved the report of the Secretary-General of the United Nations on the situation concerning Western Sahara (S/21360),

Having regard to resolution 690 (1991), by which the Security Council approved the report of the Secretary-General (S/22464) and decided to establish,

/...

under its authority, a United Nations Mission for the Referendum in Western Sahara (MINURSO),

Having regard to the aforementioned reports of the Secretary-General collectively referred to as the "Settlement Plan",

Having regard to regulations 5 and 8 to 10 of the General Regulations for the Organization and Conduct of the Referendum in Western Sahara issued by the Secretary-General on 8 November 1991 (S/26185, annex III), and

In order to ensure that the referendum on self-determination for the people of Western Sahara is free and fair, without military or administrative constraints and without any intimidation or interference, the Code of Conduct set out below shall govern the referendum campaign.

This Code of Conduct formulated and issued by the Special Representative of the Secretary-General after consultation with the two Parties shall govern the conduct and behaviour, during the referendum campaign, of the Parties and persons or groups of persons approved by the Special Representative of the Secretary-General, supporting one or the other Party participants in the referendum.

1. Sole and exclusive authority over all matters relating to the referendum, including its organization and conduct, shall be vested in the United Nations. This authority shall be exercised, within the framework established by the Settlement Plan, by the Special Representative of the Secretary-General.

2. The Special Representative shall, in accordance with the Settlement Plan, set the date for the commencement of the referendum campaign, which shall be at such time as he is satisfied that all conditions are met for a free and fair campaign and which date shall be three weeks prior to the date set for the referendum. No referendum campaign activities shall commence prior to that date.

3. The two Parties shall be entitled, in accordance with the provisions of this Code, to campaign freely for the support of those entitled to vote, during the period specified for this purpose in paragraph 2 above. Each Party shall respect the corresponding right of the other Party in this regard.

4. The two Parties shall respect the right of all persons or groups of persons wishing to participate in campaign events and activities, expressly prohibiting any form of intimidation, including intimidation of persons seeking access to polling centres. The two Parties shall see to it that no person or group of persons disrupts meetings, demonstrations and rallies organized by others having a different political view. The two Parties shall do what is needed to ensure that no person or group of persons seeks to prevent anyone from participating in meetings, demonstrations or political rallies organized by others to put forward a political position that is different from their own. It is understood that, apart from those returning under the auspices of UNHCR in accordance with the Settlement Plan, no party shall encourage, support or facilitate the transfer or movement of people in substantial number into the Territory without the express authority of the Special Representative.

5. Possession of weapons of any kind, including traditional weapons, shall be strictly prohibited during any meeting, march, demonstration or political rally related to the referendum campaign.

6. No meeting, demonstration or political rally involving 30 or more persons may be held or organized without the prior authorization, in writing, of the MINURSO civilian police who will consult with the existing security forces. In all cases where such consultation is required or permitted by this Code, the adequacy of such consultations shall be determined solely by the Special Representative. The Parties shall notify the MINURSO civilian police of their intention to hold a demonstration and shall apply for the required authorization at least two days prior to the proposed demonstration.

7. In accordance with its functions, which include monitoring the existing security forces, the MINURSO civilian police shall ensure that meetings, marches, demonstrations and rallies of opposing parties are not held close to one another, at the same time or in such a manner as to threaten public order and security. The two Parties undertake to cooperate with MINURSO in good faith so that this principle may be applied faithfully and reasonably should the dates or venues coincide.

8. Each Party shall establish direct lines of communication and maintain regular contact with the field offices of the Special Representative in the Territory, and shall keep the Special Representative apprised of any information he may request or need in order to ensure a free and fair campaign.

9. The two Parties shall respect the right to participate in authorized political meetings, demonstrations, marches and rallies conducted as part of the referendum campaign on the part of all voters entitled to participate in the referendum. Where necessary, the Special Representative shall take appropriate measures to ensure the security and freedom of access of the persons concerned, including consultations with the existing security forces.

10. The two Parties shall permit representatives of the international and local press and independent observers duly accredited by the Special Representative unrestricted access to all public political activities conducted during the referendum campaign and referendum. Such observers, to be accredited, must be recognized and experienced in election observation, shall perform only observation and reporting functions, and shall not engage in any partisan activities. The two Parties shall likewise respect the rights of official observers as are provided for under the Settlement Plan to observe and attest all political activities conducted during the referendum campaign and referendum.

11. Campaign material normally used, such as posters, video equipment, tapes, loudspeakers and, within reasonable limits, vehicles, shall be permitted at campaign activities. No national colours or flags, other than the United Nations flag, shall be displayed in any campaign activities or locations. Nor shall any national colours or flags be displayed except those that were on government buildings as at 14 September 1997.

/...

12. The two Parties shall ensure that speakers at campaign events avoid at all times using language which is offensive or inflammatory or which threatens or incites violence in any form.

13. The two Parties shall refrain from issuing pamphlets, newsletters or posters, either officially or anonymously, having an offensive, abusive or inflammatory content.

14. The two Parties shall make every effort to ensure that persons or groups of persons do not plagiarize symbols of opposing groups or steal, remove or destroy their property or campaign materials.

15. Any complaint or allegation of intimidation or of any other form of unlawful conduct during the referendum campaign shall be brought immediately to the attention of the MINURSO civilian police office and the field office of the Special Representative. The head of the office in question shall immediately take steps to resolve the matter, including informing the existing security forces if, in his opinion, the occasion requires it. If this is not possible, the matter shall be referred to the Special Representative for a decision, which shall be final.

16. The two Parties shall issue directives to all persons or groups of persons requiring their strict compliance with this Code of Conduct and shall take all other steps necessary to ensure the effective implementation of the Code.

17. The two Parties shall cooperate with the Special Representative in publicizing the Code of Conduct throughout the Territory and in giving it the widest possible dissemination.

18. The Special Representative of the Secretary-General shall have the responsibility of guaranteeing the freedom of movement and the security of the population. The two Parties undertake to do their utmost to ensure respect for these rights.

III. PRACTICAL MEASURES TO BE TAKEN FOR THE RESUMPTION OF IDENTIFICATION

1. The responsibility for implementing the identification process lies with the Identification Commission.

2. The Commission will confirm the timetable and the locations for identification, as well as the operational procedures for identification. The Chairman of the Identification Commission will inform and provide the parties with relevant convocation lists in due time after the list of sheikhs and alternates for each tribal group to be identified has been established by the Chairman following consultations with the parties. All remaining applicants, as defined and agreed in London on 19 July 1997, will be convoked once.

3. The working week and hours of work, as well as other necessary practical measures to be taken in order to achieve the weekly programme, will be at the discretion of the centre leader.

/...

4. In the interest of efficiency and economy, the necessary rotations will take place once a week from Laayoune and Tindouf. The parties will ensure that all participants concerned, sheikhs as well as observers, will be available to complete a full week's work, and accommodated accordingly.

5. The Organization of African Unity will be invited to observe in accordance with the settlement plan.

6. The parties undertake to cooperate fully with the Identification Commission in the discharge of its function.