



General Assembly

Seventieth session

Official Records

Distr.: General
27 October 2015

Original: English

Special Political and Decolonization Committee (Fourth Committee)

Summary record of the 3rd meeting

Held at Headquarters, New York, on Friday, 9 October 2015, at 3 p.m.

Chair: Mr. Bowler (Malawi)

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15-17462 (E)



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The meeting was called to order at 3.05 p.m.

Agenda item 59: Information from Non-Self-Governing Territories transmitted under Article 73 e of the Charter of the United Nations (*continued*) (A/70/23 (chaps. VII and XIII) and A/70/67)

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1. **Mr. Gutiérrez Blanco Navarrete** (Spain) said that, once again, Spain was appearing before the Committee to ask the United Kingdom — a friend, partner and ally — to comply with the United Nations mandate and negotiate on Gibraltar. Spain was ready to begin negotiations to reach a definitive solution in accordance with the relevant General Assembly resolutions, the applicable principles and the Charter of the United Nations, and was counting on the United Kingdom to do the same, as agreed by the Foreign Ministers of both countries in 1984.

2. Well into the Third Decade for the Eradication of Colonialism, the situation in Gibraltar was a historical anachronism that had not changed because the administering Power refused to resume negotiations on the issue of sovereignty. He recalled that under the Treaty of Utrecht, Spain had ceded to the United Kingdom only the town and castle of Gibraltar, together with the port (with its internal waters only), fortifications and forts belonging thereto. Spain had never ceded Territorial waters; the alleged “illegal

incursions into British waters” were thus merely routine activities of Spanish vessels in Spanish waters. Furthermore, as the United Kingdom had acknowledged on several occasions, the Treaty made Gibraltar’s independence unviable without the consent of Spain. Decolonization was none the less possible when administering Powers demonstrated political will, as the British Crown had done in a number of former Territories.

3. In keeping with the established General Assembly doctrine that the different Territorial situations must be addressed on a case-by-case basis, Spain maintained that in the case of Gibraltar, it was not the principle of self-determination that applied, but that of the restitution of Spain’s territorial integrity. The interests of the population of Gibraltar must be taken into account, but in the negotiations with Spain, the United Kingdom was responsible for representing those interests as the administering Power. Its new Constitution notwithstanding, the international status of Gibraltar had not changed and its local government had no legitimacy to interfere in the negotiations on the dispute resulting from the illegal occupation by the United Kingdom of the isthmus and the surrounding waters.

4. Spain did not and would never accept a colonial situation that was in violation of international law and was detrimental not only to the daily lives of the people of the region, but also to the Treasuries of Spain and the European Union. In 2013, Gibraltarian authorities had sunk some 70 concrete blocks into Spanish waters and were still working to reclaim land from the sea, impeding the activities of Spanish fishermen and causing environmental damage to Spain. In addition, Gibraltarian authorities had implemented a zero-tax system for foreign companies conducting business there, and had also issued hundreds of tax rulings granting a privileged fiscal regime to certain companies, thus creating non-transparent competition for Spanish and European tax systems and making it impossible to identify the company owners. Furthermore, while cigarette smuggling from Gibraltar had attained alarming levels, with economic losses for the region of Andalusia alone amounting to some €800 million, Gibraltarian authorities paid only lip service to combating illicit trafficking. The European Anti-Fraud Office had indicated, in a 2014 report, that it had found evidence that crimes of smuggling and money-laundering had been committed, affecting the

financial and other interests of the European Union. The European Union was also investigating Gibraltar with regard to possible violations of environmental and tax regulations.

5. For the purposes of defence and fulfilling its obligations as a member of the European Union Customs Union and the Schengen Agreement, Spain conducted mandatory identity and customs checks regularly at the border fence with the Rock. However, in doing so, it always sought to ensure the social well-being and economic development of the inhabitants of both Gibraltar and the surrounding area of Campo de Gibraltar. Spain was therefore ready to set up an ad hoc regional cooperation mechanism involving Spain, the United Kingdom, local authorities from Gibraltar and their neighbouring Spanish counterparts, as well as European Commission observers, to replace the defunct Trilateral Forum for Dialogue, which had become a tool for advancing Gibraltar's sovereignty claims. He noted that the United Kingdom and Spain were committed to reinforcing cooperation in the fight against organized crime and were currently exchanging proposals to achieve that common goal.

6. **Mr. Taula** (New Zealand), speaking also on behalf of the Administrator of Tokelau, said that Tokelau had a unique status as a Non-Self-Governing Territory of New Zealand and faced many challenges that were unlikely to change given its geographical isolation and extremely small population. New Zealand was committed to its constitutional relationship with the government and people of Tokelau and would therefore continue to work alongside them to ensure that all Tokelauans living on the three atolls received appropriate essential services. Since the administering Power's latest statement to the Special Committee on Decolonisation in June, its focus had remained on improving the delivery of core public services to Tokelau, particularly in health, education and transport. In that regard, one development of particular importance was the progress made in building a new ship commissioned by New Zealand to improve access to and from Tokelau. On delivery in December 2015, the \$NZ 12.5-million *Mataliki* would be gifted to Tokelau and operated by a professional shipping company to ensure the safety of the people.

7. Improving the education available to the children of the Territory was an urgent priority and had become an important facet of his Government's engagement with Tokelau following the findings of the New

Zealand Education Review Office. Consequently, New Zealand was continuing to support Tokelau through a jointly managed process to transform the delivery of education on the atolls. New Zealand was also providing technical support to Tokelauan schools and the local education department.

8. As administering Power, it also continued its efforts to maximize the generation of revenue from the Territory's own resources, in particular its fisheries — the largest income earner for Tokelau with revenue reaching \$NZ 10.75 million in 2014-2015. At the Territory's request, the Administrator of Tokelau continued to manage the exclusive economic zone fisheries together with Tokelau and with the assistance of the New Zealand Ministry of Primary Industries. Discussions on a range of reform issues proposed by the Tokelauan fisheries adviser should result in key improvements to the Territory's governance in the sector.

9. As his delegation had pointed out in June, the focus remained on providing core services for Tokelau before any further act of self-determination was considered. There was in fact no active push for change to the status quo. For the 2015-2016 period, New Zealand had made a bilateral allocation of \$NZ 14 million to Tokelau and it might be possible to find additional funding for the rehabilitation of reef channels and wharves and further improvements in education. His Government continued to value its close association with Tokelau and was resolute in supporting those remote communities of New Zealand citizens.

10. **Mr. Beck** (Solomon Islands), speaking also on behalf of the Melanesian Spearhead Group members Fiji, Papua New Guinea and Vanuatu as well as the Front de libération nationale kanak et socialiste (FLNKS), said that regrettably the vestiges of colonialism continued to hound humanity despite the adoption of the Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960. The international community must redouble its efforts to render colonization obsolete. New Caledonia was entering a seminal phase as it prepared to carry out an act of self-determination in 2018, consistent with the spirit and letter of the Noumea Accord. The importance of respecting the Accord, as established in the draft resolution on New Caledonia that was before the Committee, could not be overemphasized. The Committee should support that resolution, which

would be updated to account for recent major political and other developments in New Caledonia.

11. While the Group welcomed the ongoing positive developments taking place in New Caledonia, including the mutual understandings reached in Paris by the Committee of Signatories to the Noumea Accord and the subsequent establishment of working groups, it remained concerned by the slow progress made in finalizing the provincial electoral roll and the special electoral roll, both fundamental issues that had to be addressed to ensure a credible, fair, transparent and accountable electoral process. The commitments agreed to by all parties must also be implemented fully and effectively. The Special Committee should be given an enhanced role in guaranteeing a referendum process that conformed to the Noumea Accord and the accepted principles and practices of self-determination outlined in relevant General Assembly resolutions.

12. The Melanesian Spearhead Group reiterated its call for the effective implementation of the conclusions and recommendations made by the Special Committee after its successful inaugural visiting mission to New Caledonia. It also called on the administering Power to guarantee free and full exercise of the right to self-determination by all indigenous inhabitants of the Territory on the basis of universal adult suffrage and with full respect for the human rights and fundamental freedoms enshrined in the Noumea Accord, the Charter of the United Nations and relevant resolutions. It urged France to create a proper political climate for a free and democratic referendum and to respect the decisions taken by the elected representatives of New Caledonia regarding the electoral process, including the mutual agreement on the involvement of the United Nations in establishing and revising the special electoral rolls. The window of opportunity for addressing voting list issues before the 2018 referendum was closing fast, and failure to do so could trigger instability in the Territory. France should weigh the arguments carefully and transparently in order to resolve the dispute regarding the electoral rolls for the provincial elections before the establishment of the electoral roll for the referendum on self-determination. Furthermore, recalling the conclusions of the 2015 Caribbean regional seminar on the implementation of the Third International Decade for the Eradication of Colonialism, specifically with regard to electoral assistance from the United Nations Department of Political Affairs, the Group requested the administering

Power, in consultation with the Secretary-General, to make appropriate arrangements for a United Nations presence in the preparations for, and supervision during, the referendum.

13. Visiting missions to Non-Self-Governing Territories were a helpful means of assessing the situation in a Territory, but could be conducted only with the cooperation and support of the administering Powers. The Melanesian Spearhead Group stood ready to work with all relevant stakeholders.

Agenda item 63: Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (*Territories not covered under other agenda items*) (continued)

Hearing of representatives of Non-Self-Governing Territories and petitioners

14. **The Chair** said that, in line with the Committee's usual practice, representatives of Non-Self-Governing Territories would be invited to address the Committee and petitioners would be invited to take a place at the petitioners' table, and all would withdraw after making their statements.

Question of Gibraltar (A/C.4/70/4)

15. **Mr. Picardo** (Chief Minister of Gibraltar) said that despite the annual appearance before the Committee and the Special Committee of official representatives of Gibraltar since 1993, little or no progress had been made in respect of the decolonization of Gibraltar. It remained the last colony in Europe only because of the insistence of the Government of Spain that the inalienable principle of self-determination should not apply to Gibraltarians. That position was contrary to the provisions of the Charter of the United Nations and relevant decolonization resolutions. The repeated statements by Chief Ministers to the Special Committee and the many invitations to host a visiting mission had been met with inaction. Instead, every year the people of Gibraltar were treated to a hackneyed consensus decision that obstructed their quest for their nation to be removed from the list of Non-Self-Governing Territories.

16. Successive political administrations had already put in place the building blocks of nationhood: with a government autonomous in all respects save for defence and external relations, strong democratic institutions and a vibrant democracy, Gibraltar was

better prepared for self-governance than many other former colonies. In 2015 alone, the University of Gibraltar and a new national bank had been established. Gibraltar ranked third in the world in GDP per capita and its financial services were highly regulated. Exchange of information agreements with 79 countries and the imminent establishment of a central register of beneficial ownership of companies — a first in the European Union — illustrated that Gibraltar was fully committed to transparency in international financial transactions, despite the Spanish representative's statement to the contrary.

17. The politically motivated criticisms of the economic activity in Gibraltar originated invariably in one source: the Spanish Government, which was seeking to impede the decolonization of Gibraltar, to denigrate its economy and to prevent Gibraltarians from freely and fairly choosing their political future in order to obtain sovereignty over Gibraltar without the consent of its people. The Spanish Government's futile efforts to prevent the application of the right of self-determination to Gibraltar while seeking to control it demonstrated Spanish neo-colonialism — which the Committee must prevent — and territorial revisionism that could be seen as an attempt to rewrite the United Nations Convention on the Law of the Sea.

18. There had been a number of incursions by Spanish vessels into the British Gibraltar Territorial waters in 2015, 119 in September alone, which had provoked serious life-threatening confrontations at sea. In two separate incidents, video footage of which was publicly available on the Internet, Spanish authorities had endangered the lives of a family and of a group of fishermen who were harmlessly enjoying Gibraltar waters. Such incursions were in clear breach of the aforementioned Convention referred to, but they were the only way for the Spanish Government to lay claim to Gibraltar waters since it had been advised that any legal action brought before an international tribunal would be unsuccessful. While such political recklessness put the innocent at risk, drug traffickers continued to operate with impunity in Spanish waters, bringing tonnes of illicit substances into Europe from North Africa. The current Spanish administration was widely criticised for its failure to deal with smuggling in the region and would do well to work with its Gibraltar counterparts, which were, by contrast, very effective. However, Spain had withdrawn from the Trilateral Forum for Dialogue even though it had

been recognized, by a former Spanish Foreign Minister, as the only process that facilitated cooperation among all parties.

19. Like the United Kingdom, Gibraltar remained committed to that Forum and was convinced that, with dialogue and cooperation, it would be possible to deliver an arc of prosperity that would be mutually beneficial to the economies on both sides of the border. The Committee should encourage that, for Gibraltarians would never buckle to Spanish pressure nor waver in their determination never to relinquish their sovereignty. Anyone who sought to advance a neo-colonialist agenda with threats or who thought that Gibraltarians could be forced to give up their rights was mistaken. They were on their Rock to stay and would repeat that message until they achieved their aims.

20. **Mr. Buttigieg** (Self-Determination for Gibraltar Group) said that the concept of self-determination of a people, however small, was the very essence of democracy. In an advisory opinion requested of the International Court of Justice by the United Nations in another context, it had been stated that it was for the people to determine the destiny of a Territory and not the Territory the destiny of the people. The people of Gibraltar had emphatically expressed their wishes in two referendums, when 99 per cent of the population voted against sovereignty being granted to Spain. If the United Nations, the United Kingdom and Spain all agreed that the wishes of Gibraltarians were to be taken into consideration, he wondered why the Committee and Spain refused to heed those clearly expressed wishes. Given its constitutional relationship with the United Kingdom, Gibraltar was de facto no longer a colony and had attained a non-colonial level of self-governance. If that was not sufficient to be removed from the list of Non-Self-Governing Territories, the Committee should indicate the requisite course of action, for Gibraltarians had been asking for close to a decade.

21. Spain was emboldened by the Committee's inaction and maintained its oppressive and malicious border restrictions. A visiting mission, in line with the Committee's mandate, would reveal shocking proof of repeated Spanish incursions into British Gibraltar Territorial waters, recklessly low-flying Spanish helicopters or Spanish Guardia Civil vessels ramming Gibraltar-registered pleasure boats. The political, economic and physical strangulation instigated by

previous regimes continued to date, exacerbating the divisions that had been created with the unilateral closing of the frontier by Spain. That act of unwarranted political aggression had caused immense suffering at the time and the current generation continued to suffer under Spanish persecution. Nevertheless, those belligerent tactics would never work in the face of the tenacity and resilience of Gibraltarians; they would withstand the bullying, as they had for 311 years. Spain would cease to exist in its current national configuration before Gibraltar became Spanish.

22. It was time for the Committee to stop turning a blind eye to the question of Gibraltar. While his belief in the Committee remained intact in the light of the sterling work it had done in many important matters, the Committee must act decisively, once and for all, in order to sustain the faith that people placed in the United Nations and all that it represented.

Question of New Caledonia (A/C.4/70/6)

23. **Mr. Cornaille** (Spokesperson for the Government of New Caledonia and Minister of Budget, Housing, Energy, Digital Development, Audio-visual Media and Congressional Relations) said that his Government was committed to complying to the letter with the provisions of the Noumea Accord, which provided for regularly informing the United Nations about his country's progress towards emancipation. He wished to speak to the concerns expressed in General Assembly resolution 69/102 on the question of New Caledonia. His Government, working with Territorial institutions, had taken a number of steps to address those concerns: it had decided to revitalize the economy by improving natural resource management with a view to ensuring New Caledonia's economic sovereignty. It was finalizing an ambitious energy transition plan that would be a part of its contribution to the United Nations Framework Convention on Climate Change. It had also begun to reform public financial management by implementing new budgetary and financial measures to improve resource allocation.

24. In the social sector, his Government had introduced a number of ambitious changes that would safeguard social cohesion. The current social model must be improved by, for instance, prioritizing housing. In addition to starting the construction of two new hospitals, his Government had organized consultations on health which should lead to stronger,

more relevant and more consistent healthcare management. His Government had also developed an employment and placement strategy that would be receiving financial support from the European Development Fund.

25. In a true spirit of unity and in pursuit of the common good, all signatories of the Noumea Accord had maintained a dialogue with each other and with Territorial institutions and Committee members, meeting no fewer than three times in the past 18 months.

26. Regarding the situation of the Kanak people, equality was a principle upon which his Government would not compromise. The Noumea Accord enshrined that principle and the government endeavoured to give every man and woman of New Caledonia an equal opportunity to succeed. To that end, an educational programme would be submitted for approval to the New Caledonian Congress in late 2015, specifying the main educational goals and measures to adopt with a view to reducing drop-out rates and promoting true equal educational opportunity. The New Caledonian schools, from nursery school through secondary school, would not only promote awareness of the Kanak languages and culture, but also of the cultural diversity that made New Caledonian society so rich. Also, teaching staff recently transferred from France under the Noumea Accord would be given a new legal status.

27. Seeking greater regional political integration, New Caledonia, with the support of most political parties, wished to become a full-fledged member of the Pacific Islands Forum, the sole intergovernmental organization in the region. The announcement of a potential revision to the Forum's admission criteria at its latest summit in Papua New Guinea had raised his Government's hopes. Because international cooperation was an important aspect of government policy, New Caledonia was an associate member of the Economic and Social Commission for Asia and the Pacific (ESCAP) of the Economic and Social Council (ECOSOC) and would become a member of the World Health Organization Regional Committee for the Western Pacific. Its membership in United Nations agencies had opened doors to numerous international conferences, broadening its knowledge of international relations. New Caledonia hoped that, during the upcoming fourth France-Oceania Summit, the

administering Power as well would fully commit itself to the regional integration of its Pacific Territories.

28. In response to the comments on his Territory in the report of the Special Committee on decolonization (A/70/23), the government had entered into a constructive dialogue with all who would be participants in New Caledonia's institutional future, bolstering the training of senior officials in the public and private sectors and improving its education system.

29. The Committee of Signatories to the Noumea Accord, which had held a special meeting on 5 June in Paris, had reached agreement on the appointment of an international expert to spearhead the establishment of the electoral lists for the provincial elections and on the inclusion of an expert in the review committees for the 2018 referendum electoral lists. A report on what had been done would be made to the upcoming meeting of the Committee of Signatories. The spirit of consensus had indisputably prevailed on that major issue. With regard to implementing an information and training programme on the meaning of self-determination, school curricula dealt extensively with the institutional history of New Caledonia, and the New Caledonian media of all persuasions were dedicating an increasing amount of time to the subject of self-determination.

30. With regard to the people's right to the Territory's natural resources, the transfer of the mining and metalworking industries represented one of the most significant transfers of power in New Caledonia's institutional development. His Government must now set a vision to ensure the best use of its resources, given that it exported a large quantity of raw minerals. Its strategy would focus on two objectives: finding a better framework for exporting minerals, and reapportioning, in partnership, the provinces' share in mining and metalworking companies. It also wished, as soon as possible, to open discussions on the metalworking companies' shareholding structures, and would propose a mining tax whose proceeds would be put into a fund for future generations. The New Caledonian Congress would be debating the strategy for that major economic sector the following week. His Government would pursue its efforts in a spirit of consensus and unity and do its utmost to help the decolonization process succeed.

31. **Mr. Forrest** (Front de libération nationale kanak et socialiste (FLNKS)) said that while there was only a

limited time to implement all the recommendations of the Special Committee's visiting mission before the 2018 referendum, consultations were currently in progress on the fragile consensus reached in Paris in June 2015 during a special meeting of the Committee of Signatories of the Noumea Accord regarding electoral lists. All involved, however, agreed that electoral fraud was now a real possibility. FLNKS reiterated its request for support from the United Nations Electoral Assistance Office, as recommended at the Caribbean regional seminar, to ensure the establishment of honest and transparent electoral lists, which currently the administering Power could not guarantee.

32. Another problem was that control of the strategic nickel industry had not been fully transferred to New Caledonia, as stipulated in the Noumea Accord, thus obstructing any prospect of the Territory's economic growth; while at the same time the pillaging of its natural resources continued. In that regard, the FLNKS called on all relevant stakeholders to exercise good judgment and allow the people of the Territory to reap the benefits of its resources, as called for the annual resolutions on economic and other activities which affected the interests of the peoples of the Non-Self-Governing Territories. Furthermore, just three years prior to the referendum, several other key provisions of the Noumea Accord regarding the transfer of powers had not been implemented. The latest example of the pro-French parties' governing practices was the fact that, for lack of dialogue or consensus with their pro-independence partners, they had totally blocked the functioning of a national institution — the Territory's Economic, Social and Environmental Council.

33. Massive, organized immigration also continued, thus undermining the concept of New Caledonian citizenship while marginalizing the Kanak people in their own land. The latest statistics showed a flagrant reduction in the proportion of Kanak people from almost 45 per cent in 1989 to 39 per cent in 2014, despite a population increase of more than 100,000 during that period.

34. In view of the problems outlined, and pursuant to General Assembly resolutions, his delegation urged the United Nations to send an annual visiting mission to New Caledonia until the 2018 referendum was held, so that all concerned could perform their respective responsibilities properly. The United Nations must help the administering Power to eradicate colonialism in

that Melanesian land and guarantee a fairer and more unified society there.

35. Full sovereignty remained the objective of FLNKS. Having chaired the Melanesian Spearhead Group from 2013 to 2015, it had gained rich, formative experience in working with its partner countries.

36. **Mr. Wamytan** (Front de libération nationale kanak et socialiste (FLNKS)), speaking as Chair of the Group comprising the FLNKS/Union calédonienne (UC) coalition and the Nationalists in the New Caledonian Congress, said that France, which 70 years earlier had unilaterally withdrawn New Caledonia from the United Nations list of countries to be decolonized, continued even now to maintain a strategy of prohibiting independence in the name of its higher interests and global position. Although the Territory had maintained a constant dialogue with the administering Power since the conclusion of the Matignon and Noumea Accords, year after year an FLNKS member had come before the Committee to denounce the anti-emancipation policy of successive French Governments.

37. One manifestation of that policy was the influx of French immigrants who had steadily made the Kanaks a minority in their own country. Another was the failure to redress the imbalance, thus marginalizing a sizeable portion of the Kanak population, especially the young. Similarly, the transfer of powers had been intended to establish in New Caledonia a system similar to that in the former French colonies in Africa. Internationally and regionally, the administering Power sometimes used New Caledonia as a Trojan horse to strengthen its influence in the Pacific region, as when it had attempted to obtain full membership status for it in the Pacific Islands Forum. There was also the thorny question of the special electoral lists, or the exploitation of nickel resources, or the deportation since 2015 of Kanaks to distant high-security prisons in France after unduly harsh and politically motivated convictions. The constant throughout was that any pro-independence claim was taken to be a threat.

38. That same French policy was evident in its attitude towards the disputed electoral preparations for the country's accession to complete sovereignty in 2018. Even though all political groups in the New Caledonian Congress, including the anti-independence parties, had publicly and officially agreed on the role of United Nations observers in the electoral process,

the French Government was stalling. To date, there had been no word from France that it might make such a proposal to the United Nations.

39. In the light of that, his delegation renewed its request that the United Nations should become purposefully and actively involved in the process of decolonizing New Caledonia so that the Kanaks — a native and colonized people — could engage in a true act of self-determination that was free, transparent and in compliance with United Nations principles.

40. **Mr. Beck** (Solomon Islands) asked for clarification about Mr. Wamytan's concerns about the self-determination process currently underway in New Caledonia.

41. **Mr. Wamytan** (Front de libération nationale kanak et socialiste (FLNKS)) said that, like all colonized peoples aspiring to liberty, his people wished to exercise their right to self-determination and independence through a referendum in accordance with United Nations principles. To date, the administering Power had never wished to involve the United Nations in the process. He considered the United Nations a protector for a process that was free, fair and transparent for all New Caledonians. The right to vote had been a source of tension as the administering Power had continued to drown out the Kanak people in the settlement colony it had established.

42. **Mr. Boanemoi** (Fédération des Groupements de droit particulier local (GDPL)) said that his organization represented the legal rights of the clans and tribes of the Territory. Like all the peoples of the Pacific region and the Melanesians in particular, the Kanaks had a sacred relationship with their land. Their demand for emancipation had originated in the drive to recover the lands expropriated by the colonial Power after the Second World War. Despite numerous land cession acts in the intervening years, statistics indicated that over 100 clans comprising thousands of families had not regained their ancestral lands to date, and that only twenty-eight per cent of the lands were currently administered under customary law. Moreover, after signing the Noumea Accord, the French Government had seen fit to renounce its colonial debt and political responsibility, even though it had been clearly stated in the Preamble of the Accord.

43. Consequently, it was essential to make an in-depth study of the status of property reform in the Territory in order to calculate how many claims had

actually been satisfied, and to pursue the property reform accordingly, with the United Nations specialized agencies providing technical support, as stipulated in the Declaration on decolonization. The aim was to transfer power from the Rural and Land Development Agency (ADRAF) to the New Caledonians themselves and, above all, to make France face up to its responsibilities.

44. The local customary law groups (GDPLs) that comprised his Federation had been established 30 years earlier as a specific legal instrument to promote development on customary property. The idea had been that claiming the land could not be an end in itself, but had to lead to the economic development of customary land. From the start, that vision had been quite different from the Kanak land claim, which was based essentially on a question of identity: to renew ties with a land broken by colonization and despoliation and, consequently, enable clans to rediscover their cultural identities and ancestral lands.

45. It was now urgent to make the GDPLs function more efficiently, by endowing the individual groups with a stronger legal foundation for their activities in recovering and developing customary lands. Customary lands were the poor relations of the land recovery and development of New Caledonia, a source of tension because of the excessive social disparities. His country-wide Federation had been set up in 2014 as a forum where local GDPL officials could gather to discuss the problems they had encountered and offer recommendations on improving their populations' daily lives. The first issue on the agenda had been to change the legal status of the GDPLs by putting customary authority — rather than common law as was currently the case — in charge of decision-making and managing customary lands. But it was also a matter of giving people originally living on customary lands the resources to implement their plans because there were no specific laws governing such land development.

46. **Mr. Morini** (Centre pour le Destin Commun), speaking as a non-partisan activist, said that, like thousands of other young New Caledonians — both Kanak and Wallis Islanders, he was alive above all thanks to the Matignon and Noumea Accords. Although it was necessary to bury the hatchet, the general amnesty had covered up the legitimate suffering of an entire generation, whatever community they were from. That lack of forgiveness was the true source of the hatred transmitted from generation to

generation, leading to mutual fear, growing insularity and a disproportionately armed population. That hatred fed the hysteria over the referendum, abhorred by some and eagerly anticipated by others.

47. The real choice New Caledonia was facing was not France or independence, but separation or reconciliation among New Caledonians. If the true goal was peace, a process of reconciliation should be encouraged through a strong, symbolic and reciprocal gesture. He advocated holding a national event in which representatives of civil society and the customary community and the general population would participate in a sacred Kanak customary gesture, the mutual forgiveness and recognition ceremony, which would serve as a key to lasting peace in New Caledonia.

48. Given its mission, the United Nations had a particular responsibility towards New Caledonia, United Nations electoral observers should be invited for the referendum, as a reassurance to the population of the peaceful course of the proceedings. New Caledonia's elected officials themselves had the historic responsibility to stand united against hatred and political violence — a purpose that surpassed all sectarian interests.

Question of Guam (A/C.4/70/5)

49. **Mr. Ada** (Senator in the Guam legislature), speaking on behalf of his Government and as a member of the Guam First Commission Advisory Council dealing with decolonization matters and the protection of Guam's Chamorro culture, said that for years, the leaders of his island community had wrestled with the need to give the people a voice as they journeyed towards self-determination. For the first time in 20 years, the current Calvo-Tenorio administration had provided funding for an education campaign to inform the population about the implications of the coming plebiscite. Additional local funding would create educational materials on the three status options that would redefine Guam's relationship with the United States and the world: statehood, independence or free association.

50. The Governor, the Legislature and many in the community firmly believed that any of those options were better than the status quo. While his countrymen taught their children that democracy was a gift for all United States citizens to enjoy, citizens residing in

Guam and their representative to the United States Congress were denied the opportunity to vote for the United States President. Yet the decisions of Washington lawmakers and judges had a huge impact on his people and economy. United States policies intended to protect its trade and promote its own economy debilitated, however inadvertently, the economy of Guam and were detrimental to the quality of life in Guam. It was the responsibility of both the Special Committee on decolonization and Guamanian leaders to ensure that the people of Guam — regardless of their ability to vote in the plebiscite — understood the impact of remaining an unincorporated Territory, loosening its relationship with the United States or becoming a U.S. state. As part of Guam's education campaign, for which it had requested additional United States funding, the Special Committee on decolonization was working with the public and private school systems to hold debates on the plebiscite for, as advocated by the United Nations, it was vital for his country's young people to have a voice in the discussion on a matter that so affected their futures.

51. An expected build-up of United States military forces in Guam would undoubtedly help support the Island's growing economy. While many in Guam supported the build-up, there were those who believed that the decolonizing effort would be diminished by the increased United States military presence. Aware of those concerns and anticipating the eventual end of the expected economic boom, the current government was adamant about growing the economy by other means even as it took full advantage of the build-up.

52. His Government was working to bring the question of Guam's political status to a vote in the next two years. It asked for the support of the United Nations as it attempted to end centuries of colonization through a simple vote of its native people, who were defined as all those born in Guam before 1 August 1950 and their descendants. The Chamorro people could not continue to remain in political limbo and were determined to remove themselves from the United Nations list of Non-Self-Governing Territories. To that end, they needed help to ensure that whatever vote they cast was honoured by everyone, as guaranteed by the Declaration on decolonization. The international community must therefore support Guam's decision to practice that right of self-determination and decide for themselves who they were as a people and as an Island in the global partnership of nations.

53. **Ms. Won Pat** (Speaker of the Guam legislature) said that the most acute threat to any legitimate exercise of decolonization was Guam's militarization by the United States, which ignored the General Assembly's instructions not only to scale down and ultimately close its military installations in its Non-Self-Governing Territories, but to refrain from establishing new ones. Despite years of protests by thousands of Guam's people, the United States had announced a detailed plan for the military build-up of the Island, including the construction of a massive and expanded military base, the relocation of some 5,000 United States marines to Guam, the taking of additional sacred and culturally rich lands and the conducting of war games, weapons testing and arms training. The United States military was also moving forward with training and military exercises in the Mariana Islands in an area covering 984,000 square nautical miles. Such military activities would deny the Guamanian people their rights to their natural resources by restricting access to land and sea. The Committee must adopt a draft resolution on Guam reaffirming the established rule that escalated military activities in Guam constituted an unlawful impediment to self-determination and a simple contravention of international law.

54. The United States had utterly failed to provide the necessary resources for an education campaign in preparation for the self-determination plebiscite. The General Assembly must pressure the United States to fund and encourage a comprehensive campaign. With regard to an ongoing lawsuit demanding the expansion of the electorate to non-native inhabitants of Guam, she urged the Committee in its draft resolution on Guam, to call on the United States Department of Justice to file an *amicus curiae* brief declaring that the self in self-determination referred in fact only to those persons who were made United States citizens by the Organic Act of Guam in 1950 and to their descendants.

55. The hallmark of self-determination must be the safeguarding of Guam's right to its own natural resources. The previous year, the United States had concluded a controversial maritime boundary delimitation treaty with the Federated States of Micronesia, demarcating the maritime boundary between that country and Guam. However, at no point had Guam been consulted during the years of discussions, negotiations and, ultimately, implementation of the treaty.

Question of the Falkland Islands (Malvinas) (A/C.4/70/2)

56. **Mr. Hamilton**, speaking in his personal capacity as a historian, said that two things had come to his attention on reading the press release concerning the previous day's meeting at which the Falkland Islands (Malvinas) had been discussed: the consensus that the long-standing dispute must be resolved through the resumption of bilateral negotiations and the response of the United Kingdom to the effect that it had no doubt about its sovereignty and that there would be no dialogue thereon until the Islanders requested it. He would like to see a resolution of the dispute which divided his country, the United Kingdom, from Argentina and Latin America, and wished to propose a solution to break the deadlock. Regrettably, General Assembly resolutions 2065 (XX) and 1654 (XVI) had perhaps over time lost sharpness in their focus and force in their application. He would like to see the Committee and the Special Committee return to playing a more active, authoritative role on the question of the Falkland Islands/Malvinas. The key to his proposal lay forgotten in a report of the Special Committee (A/5800/Rev.1, chap. XXIII, annex, para. 37), where it was stated that a recommendation connected in one way or another with the substance of the matter would be necessary to permit complete application of the Declaration on decolonization.

57. The substance of the matter was not the independence of the inhabitants of the Territory, as was the case with other Non-Self-Governing Territories. The Organization had determined that the inhabitants of the Falkland Islands/Malvinas were not a people with a right to self-determination, but a "population" (resolution 2065 (XX), para. 1). The substance, then, was the sovereignty over the Territory itself.

Question of French Polynesia (A/C.4/70/3)

58. **Mr. Tuheiava** (Member of the Assembly of French Polynesia) said that his political party continued to attach great importance to the role of the United Nations in the decolonization of the Territory pursuant to international law. He once again urged the administering Power, France, to comply with its obligations under Article 73 *e* of the Charter of the United Nations, which, regrettably, it still ignored, and recalled the provision in resolution 1514 (XV), paragraph 3, that inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence.

59. Decolonization was fundamentally a question of justice. However, justice delayed was justice denied, and the political status quo, with France controlling the main functions of governance, denied French Polynesia the fundamental right to an equitable and genuine self-determination process and constituted a false autonomy. Several General Assembly resolutions had confirmed that the ownership, control and permanent sovereignty of natural resources lay with the peoples of Non-Self-Governing Territories and that the exploitation and plundering thereof by foreign economic interests was a violation of the relevant resolutions and a threat to the integrity and prosperity of those Territories.

60. France continued to usurp unilaterally the Territory's marine resources contained in the 5,000,000-km² economic exclusive zone, which included a vast array of strategic metals, thereby depriving the people of French Polynesia of the means to build a sustainable economic and social future and to move away from the profound economic dependency created by the false economic benefits that resulted from French nuclear testing. Further economic exploitation occurred in a number of ways. Aviation taxes and overflight fees paid by airlines landing at the Tahiti-Faa'a International Airport went to the French Treasury. Similarly, the fees and revenues generated by the crossing of geostationary satellites into French Polynesian airspace and of submarine fibre-optic cables were controlled by the administering Power. It would appear that natural resources and revenues from the Territories were the essence of contemporary colonialism. However, the inalienable right to self-determination of the people of French Polynesia would not be impeded by orchestrated colonial pretexts. His party stood ready to work with the United Nations to fulfil the decolonization mandate for his people, as a matter of urgency.

61. **Mr. Beck** (Solomon Islands) asked whether the petitioner thought that the people of French Polynesia would benefit from the visit of a United Nations fact-finding mission and whether a regional approach would be an acceptable alternative.

62. **Mr. Tuheiava** (Member of the Assembly of French Polynesia) said that a regional or subregional mission, with the approval of the administering Power, would be a useful alternative. Such a mission would contribute to the collection of information required by the Special Committee and the Committee, particularly

in the light of the refusal of the administering Power to comply with its obligations. The successful completion of a recent visiting mission from the Pacific Islands Forum, approved by France, that covered regional issues outside the mandate of the Special Committee, was a good precedent for regional initiatives.

63. **Mr. Corbin** (Dependency Studies Project), noting that the Project was devoted to the analysis of non-independent governance models, said that in establishing the substantive basis for the reinscription of French Polynesia on the list of Non-Self-Governing Territories, a self-governance assessment had been undertaken to ascertain the level of self-government according to recognized international standards. Self-governance indicators, derived from the minimum standards of self-government as set out in international instruments, were used to diagnose the nature of a Territory's political status. Those indicators had been formulated with specific reference to small island non-independent countries and were used to classify the relationship between Territories and administering Powers: non-self-governing; autonomous, as was the case with French Polynesia; and partially or fully integrated into other States. Such assessments had been useful to the Territories themselves in the absence of the periodic analyses of the implementation of the Declaration on decolonization that were to have been completed for each Territory as a mandate of the General Assembly in the plans of action of the three International Decades for Eradication of Colonialism.

64. With specific reference to French Polynesia, a number of indicators pertaining to the constitutional and political dimension, the economic and social dimensions, and the military and strategic dimension had been analysed. The assessment had concluded that the Territory was indicative of the dependency governance arrangement which had been modernized in form and nomenclature over time, but not in substance. It had found that there remained a significant political imbalance and a high degree of unilateral authority exercised by the administering Power in the political, socioeconomic and strategic dimensions, among other areas. It ultimately determined that French Polynesia did not meet the recognized international standards for the full measure of self-government through autonomous governance. That provided the substantive basis for the adoption by the General Assembly of resolution 67/265 recognizing French Polynesia as a Non-Self-Governing Territory,

thus confirming the applicability of international law to the decolonization of French Polynesia, as indicated also in resolutions 68/93, 69/103 and the draft resolution recommended by the Special Committee that was currently under consideration by the Committee.

65. **Mr. Beck** (Solomon Islands), noting the importance of self-governance indicators in reviewing the political status of Non-Self-Governing Territories, asked whether the working papers on French Polynesia produced by the United Nations Secretariat provided similar analysis.

66. **Mr. Corbin** (Dependency Studies Project) said that such working papers tended to be informational or statistical documents that did not have sufficient political analysis to respond to Member States' requirements. That was why the Plan of Action for the initial International Decade for the Eradication of Colonialism had called for specific analyses of the political relationships and developments in the Territories themselves. Twenty-five years later, those analyses had yet to be seen, so it fell to the Territories to analyse and ascertain whether their political relationships were consistent with international law.

67. **Mr. Brotherson**, speaking in his personal capacity as a deputy mayor of Faa'a, Tahiti, said that the effects of nuclear testing on the people of a Non-Self-Governing Territory was no longer a domestic issue in which the administering Power could push aside reparations for human rights violations under the guise of national security or hide vital information. French nuclear testing must be addressed by the United Nations without the bias of the military strategic context of the administering Power. Failing that, it would be impossible to consider and determine accurately the compensation for the 193 nuclear tests carried out between 1966 and 1997, which discharged the equivalent of 720 Hiroshima bombs in the atmosphere and 210 underground and were causing several fatal illnesses in his Territory.

68. The 2014 report of the Secretary-General on the environmental, ecological, health and other impacts of the 30-year period of nuclear testing in French Polynesia (A/69/189) had not been comprehensive, containing a mere compilation of replies from only two United Nations agencies out of 22 requests for information, and had not been discussed by the Special Committee, having been circulated one month after its 2014 session. However, a 2014 independent report on

nuclear testing in French Polynesia prepared by renowned scientists did provide a comprehensive analysis that was worthy of the consideration of Member States and he asked for it to be circulated as a document of the General Assembly. He also reiterated his request for French Polynesia to be included in the programme of the United Nations Scientific Committee on the Effects of Atomic Radiation.

69. In November 2014, the Assembly of French Polynesia had adopted a resolution calling upon France to acknowledge the colonial nature of its nuclear testing and to set up a committee to assess the financial damages caused by the occupation. The information had been passed on to the Special Committee; it was therefore surprising that no reference to that resolution had been made either in the working paper or in the draft resolution before the Committee. He asked whether it had been deemed not worthy of the Special Committee's consideration or whether there had been undue pressure exerted behind the scenes by the administering Power to censor such references. Atomic radiation knew no political boundaries. Yet the dependent status of French Polynesia had denied survivors justice and reparation. The people of French Polynesia expected the mandates of the General Assembly stemming from the reinscription of the Territory to be carried out fully and remained committed to their decolonization.

70. **Mr. Beck** (Solomon Islands) asked whether the Special Committee had been advised of the adoption of the resolution by the Assembly of French Polynesia.

71. **Mr. Brotherson** said that the document had indeed been sent to the Special Committee early in 2015 and was also publicly available as a result of extensive national and regional media coverage. He should also have thought that the administering Power would have circulated the resolution, as it had been determined to do in similar circumstances in May 2013.

Question of Western Sahara (continued) (A/C.4/70/7)

72. **The Chair**, recalling that he had requested time to consult on the matter of the inclusion of two petitioners on the Committee's list of petitioners under the question of Western Sahara — Ms. Pearson and Mr. Cameron — said that the Committee must make a decision in the spirit of cooperation and rationality. There were 88 petitioners waiting to address the

Committee on the question and any further delay in approving their requests or attempts to question their validity would cast a significant shadow on the Committee's work and commitment. He drew attention to the fact that for the past three sessions of the General Assembly, Mr. Cameron had addressed the Committee on the basis of similar letters submitted. In that respect, he referred to the summary records of the Committee contained in documents [A/C.4/69/SR.3](#), [A/C.4/68/SR.5](#) and [A/C.4/67/SR.5](#), which reflected the statements made by that petitioner. In the light of that important precedent set by the Committee, and given the similarity of the requests by the two petitioners, he ruled that they should be retained in document [A/C.4/70/7](#).

73. **Mr. Bessedik** (Algeria) said that while he appreciated the Chair's efforts, nothing had changed since the previous day. In accordance with the Committee's mandate, any petitioner requesting a hearing was required to focus only on the situation in the 17 Non-Self-Governing Territories. While it was understandable for references to be made to administering Powers, there was no precedent for a petitioner to comment on third countries and it was contrary to the rules of procedure. He regretted the lack of vigilance that had resulted in the approval of petitioners who in their requests had brought up issues that were not relevant to the Committee, and asked the Secretariat to ensure that that would never happen again.

74. To prove its flexibility, and only exceptionally, his delegation would agree to their inclusion on the condition that the petitioners change the wording of their letters to refer exclusively to Western Sahara. The General Assembly stipulation that communications from petitioners should not mention countries not concerned by occupation was applicable to all petitioners.

75. **The Chair** said that he would ensure that petitioners focused their remarks solely on Non-Self-Governing Territories.

76. **Mr. Naanda** (Namibia) said that the fact that something was done wrong in the past did not make it right and the Committee must therefore refrain from repeating its mistakes. The issue of refugees was not on the agenda. The official agenda item was clear and made no mention of the camps near Tindouf in Algeria.

His delegation would strongly object to the hearing of the petitioners in question.

77. **Mr. Laassel** (Morocco), speaking in exercise of his right of reply, said that he understood the concerns of the representative of Algeria. Given that Mr. Cameron and Ms. Pearson had worked in the Tindouf camps and had witnessed the despoliation of humanitarian aid as reported by the European Anti-Fraud Office (OLAF), his Algerian colleagues were aware of what they would say. The petitioners were speaking of a situation that originated in the Sahara region. Could the Committee speak of a Territory without referring to its population? With regard to procedure, the Committee was discussing the Territory of Western Sahara, a registered Non-Self-Governing Territory. His delegation asked that the two petitioners whose presence on the petitioners' list was being disputed be retained.

78. **Mr. Bessedik** (Algeria), speaking on a point of order, said that the subject under discussion was not the Tindouf camps, but a procedural matter. The situation in the camps was not the subject of the current debate. The Office of the United Nations High Commissioner for Human Rights, the Human Rights Council and the Third Committee were more appropriate venues for it. The UNHCR was currently investigating the situation and had a field presence. The Fourth Committee must limit itself to discussing the procedural flaw of having approved the petitioners in question. He called on the representative of Morocco to follow the rules and focus on the main subject, which was the occurrence of a procedural flaw in the Committee's work.

79. **Mr. Ciss** (Senegal) said that he regretted that, after the Chair's efforts to preserve the petitioners' list, the Committee returned to the issue of removing petitioners. His delegation associated itself with the Moroccan delegation and requested that the Committee offer the petitioners the opportunity to present their case. The issue of refugees was a key issue and his delegation asked that it not be examined in a fragmented manner.

80. **Mr. Bessedik** (Algeria) said that in the future, petitioners must correct the content of their letters related to countries other than a Non-Self-Governing Territory.

81. **Mr. Laassel** (Morocco) said that the following year, there should be a single format for requests for

hearings in order to avoid problems. His delegation too had examined the petitioners' list and found usurpations of job titles, but had not raised those issues to preserve peace.

82. **Mr. Mugimba** (Uganda) said that procedure took precedence when addressing General Assembly issues. The Fourth Committee was shifting its focus to issues falling under the purview of a human rights committee. His delegation objected strongly to the two petitioners proceeding and requested that the other Member States be flexible so that the Committee could have the time to listen to the other petitioners.

83. **Mr. Ciss** (Senegal) said that the Moroccan delegation had shown flexibility in the discussion of the Western Sahara-related issue and the Committee already had a petitioners' list. The Committee should take a legal position on the practice of approving petitioners, in order to avoid having conflicts of that nature in the future.

84. **Mr. Bessedik** (Algeria) recalled that the Committee's jurisprudence could establish a practice as a precedent where there was not yet a rule on the matter, but could not do so in the face of an existing rule. Thus, his delegation rejected any reference to a practice with no legal value.

85. **Mr. Mugimba** (Uganda) said that the great challenge for jurisprudence was to allow freedom while enforcing order, for it was a contradiction in terms. Jurisprudence did not take precedence in the case at issue.

86. **Mr. Ciss** (Senegal), clarifying that he did not wish to set a legal precedent, said that the Committee had already established a petitioners' list and should listen to those petitioners so as not to prolong the discussion. In the future, he suggested paying special attention to the Secretariat's report to prevent a similar situation from arising. The question of Western Sahara should not be treated in a fragmented manner and the issue of refugees could not be obscured during its discussion.

87. **Mr. Bessedik** (Algeria) said that it was not a matter of authorization, but of conforming to a clearly-defined mandate: to discuss the Non-Self-Governing Territories, in the current case Western Sahara, and not the neighbouring countries.

88. **The Chair** said that there was a growing consensus that the voice of the petitioners be heard. He

would ensure that all petitioners focused their remarks on the 17 Non-Self-Governing Territories in accordance with the Declaration. He ruled that the two petitioners in question be retained in document [A/C.4/70/7](#).

89. *It was so decided.*

90. **Mr. Rosemarine**, speaking in his personal capacity as an international law specialist, said that Morocco's 2007 autonomy proposal was the best practical way to bring Sahrawis long-term happiness. The proposal, fair, flexible and far-sighted, combined a large degree of self-determination with an emphasis on negotiations. It aimed to build a modern, democratic society based on economic and social development. As such, it brought hope for a better future for the region's population and promoted reconciliation, and would put an end to separation and exile.

91. Morocco guaranteed to all Sahrawis, inside and outside the Territory, that they would play a leading role in the Sahara region's bodies and institutions without discrimination. The Sahrawis would run their affairs democratically and would have all necessary financial resources. The international community had witnessed Morocco's response during the Arab Spring, when it had instituted lasting democratic reform and encouraged economic growth for the benefit of all. Morocco had given greater democratic freedoms to its entire people, with the result that an opposition party had been elected and remained in power. Thus, Morocco could be trusted to achieve the same in the Sahara region through its autonomy proposal.

92. Just as Scotland had preferred autonomy to independence in a recent referendum because it recognized that it was dangerous to break away from a stable and established country in the modern world, and just as the United Kingdom could be trusted to organize a fair referendum, so could Morocco, which had pledged to work jointly with the Sahrawis in good faith to organize a referendum in accordance with international law, the United Nations Charter and the resolutions of the General Assembly.

93. **Mr. Bessedik** (Algeria) said that the agenda item concerned Western Sahara and not Moroccan Sahara, a term which should not be used.

94. **The Chair** reminded the speaker to limit his statement to the issues at hand.

95. **Mr. Rosemarine**, replying to the representative of Algeria, said that the actual title of his statement was the solution to the Moroccan Saharan dispute.

Statements made in exercise of the right of reply

96. **Mr. Sherry** (United Kingdom), replying to the representative of Spain, said that his Government recalled its sovereignty over Gibraltar and the Territorial waters surrounding it and reaffirmed that Gibraltar enjoyed the rights accorded to it under the United Nations Charter. It also recalled that the people of Gibraltar enjoyed the right to self-determination and that the 2006 Gibraltar Constitution, endorsed in a referendum, provided for a modern and mature relationship between Gibraltar and the United Kingdom.

97. His Government reaffirmed that it would not enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another State against their freely and democratically expressed wishes and confirmed that it would not enter into a process of sovereignty negotiations with which Gibraltar was not content. It reaffirmed its commitment to safeguarding Gibraltar, its people and its economy.

98. The United Kingdom and Gibraltar remained firmly committed to the Trilateral Forum for Dialogue as the most credible, constructive and practical means of strengthening relations amongst all parties. The United Kingdom regretted that the Government of Spain had withdrawn formally from those talks in 2011.

99. Following an initial proposal by the United Kingdom and Gibraltar to Spain in April 2012, the United Kingdom sought to proceed to ad hoc talks among officials with a view to advancing cooperation on mutually important issues by means that fully reflected the wishes, interests, rights and responsibilities of the people of Gibraltar. Discussions continued with Gibraltar and Spain to bring about those ad hoc talks. Under the 2006 Constitution, Gibraltar had competence for all policy areas except external relations, defence and internal security, which were reserved for the United Kingdom. Gibraltar's active negotiation in any dialogue process was therefore non-negotiable.

100. The United Kingdom refuted the allegations that it had illegally occupied the Isthmus and the surrounding waters. Under the United Nations

Convention on the Law of the Sea, Territorial waters flowed from sovereignty over the land. The State which was sovereign over the land was also sovereign over the Territorial waters out to three nautical lines or to the median line. His Government had made its position clear to the Spanish Government whenever necessary and would continue to uphold British sovereignty and implement a range of proportionate naval and diplomatic responses to illegal incursions by Spanish vessels into British Gibraltar Territorial waters.

101. His Majesty's Government of Gibraltar was ready to work with its Spanish counterparts across the full range of law enforcement challenges. His delegation recalled the frequent cooperation between the Royal Gibraltar Police and the Spanish Guardia Civil, which benefited both Spain and Gibraltar. Gibraltar had constitutional competence for taxation and maintained a fair and open tax system. It complied with all applicable European Union directives and regulations for financial services, taxation and money laundering, including the Savings Directive and the Mutual Assistance Directive. The Organization for Economic Cooperation and Development (OECD) listed Gibraltar among the jurisdictions which had substantially implemented the internationally agreed tax standard alongside the United Kingdom, Germany and the United States.

102. Gibraltar had made strong progress on tax information exchange agreements, having signed 27 of them and formed over 130 equivalent relationships with States which were signatories to the OECD Mutual Assistance Convention and with all the European Union member States. Gibraltar had sent a written proposal for such an agreement to Spain, but to date had received no reply. Nevertheless, information exchange between Gibraltar and Spain still took place under the European Union's Mutual Assistance Directive and the OECD Mutual Assistance Convention. Moreover, Gibraltar had extended automatic exchange of information to five European Union member States, including Spain.

103. Gibraltar would continue to cooperate with the European Commission's investigation into one aspect of its tax regime with support from the British Government, which was confident that the tax regime complied with all applicable European Union and international standards. The 2014 European Anti-Fraud Office (OLAF) report had elicited concern from both

the Spanish and Gibraltar authorities with regard to cigarette smuggling over the Gibraltarian-Spanish border. The European Commission had recognized Gibraltar's commitment to tackling tobacco smuggling and the significant steps taken to date, including restricting the number of cigarettes allowed in the land border area to 200 per person. Gibraltar had repeatedly expressed its desire to work more closely and directly with its Spanish counterparts on that issue.

104. Gibraltar's creation of the reef had been deemed legal by the European Commission in 2014 and was part of its long-term marine environment management plan for improving fish stocks and regenerating the marine habitat. The use of concrete blocks to create artificial reefs was consistent with international best practices and the Spanish Government's own approach. Gibraltar's environment, including British Gibraltar Territorial waters, was the responsibility of its Government, which was aware of its obligations under European Union law and relevant international treaties and conventions.

105. **Mr. Gutiérrez Blanco** Navarrete (Spain), reiterating points made in his earlier statement, said that the position of Spain regarding the areas ceded to Great Britain under the Treaty of Utrecht remained unchanged. Spain did not acknowledge that the United Kingdom had any rights to the land, air and sea not included in article X of the Treaty, under which only the town and castle of Gibraltar, together with its port, fortifications and forts, had been ceded.

106. The isthmus had not been ceded by Spain to the United Kingdom under the Treaty of Utrecht, and had always been under Spanish sovereignty. Spain had repeatedly stated that the mere continued occupation by the British did not meet the requirements of international law for the acquisition of sovereignty. It was therefore illegal. Spain rejected the reference made by the representative of the United Kingdom to illegal incursions in Gibraltarian waters; they were routine operations of Spanish vessels, often to combat crime, in Spanish waters and would therefore continue.

107. On the matter of taxation, it was pointless to sign exchange of information agreements for tax purposes if they were not respected. Gibraltar had never provided pertinent information and never signed dual taxation treaties. In July, Spain had filed a complaint to the European Commission alleging that Gibraltar was receiving illegal state aid from the United Kingdom in

the area of taxation of gambling. Furthermore, the European Union had recently published lists of uncooperative tax jurisdictions, on which Gibraltar figured prominently and was the only European Territory to do so.

108. Spain welcomed the success of anti-fraud measures and the reduction in trafficking, but was concerned by the rise in maritime trafficking. With regard to the unilateral actions to which he had referred earlier that were detrimental to the environment and to Spanish fishermen, including the illegal fishing of bluefin tuna, he noted that Spain had begun a number of legal proceedings which were currently before the European Union and Spanish courts. On a more positive note, he confirmed that Spain was currently in talks with the United Kingdom concerning regional cooperation to fight organized crime and was also awaiting its reply on the ad hoc mechanism to replace the Trilateral Forum.

The meeting rose at 6.05 p.m.