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**1849<sup>th</sup>** MEETING: 20 OCTOBER 1975

NEW YORK

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#### NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

Documents of the Security Council (symbol S/ . . .) are normally published in quarterly *Supplements of the Official Records of the Security Council*. The date of the document indicates the supplement in which it appears or in which information about it is given.

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## 1849th MEETING

Held in New York on Monday, 20 October 1975, at 11 a.m.

*President:* Mr. Olof RYDBECK (Sweden).

*Present:* The representatives of the following States: Byelorussian Soviet Socialist Republic, China, Costa Rica, France, Guyana, Iraq, Italy, Japan, Mauritania, Sweden, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United Republic of Tanzania and United States of America.

### Provisional agenda (S/Agenda/1849)

1. Adoption of the agenda
2. The situation concerning Western Sahara:  
Letter dated 18 October 1975 from the Permanent Representative of Spain to the United Nations addressed to the President of the Security Council (S/11851)

*The meeting was called to order at 11.25 a.m.*

### Adoption of the agenda

*The agenda was adopted.*

**The situation concerning Western Sahara:**  
Letter dated 18 October 1975 from the Permanent Representative of Spain to the United Nations addressed to the President of the Security Council (S/11851)

1. The PRESIDENT: The meeting of the Security Council has been convened at short notice in response to the urgent request made in the letter dated 18 October from the representative of Spain to the President of the Security Council [S/11851]. In his letter, which has just been included in the Council's agenda, the representative of Spain requested that he be invited under rule 37 of the provisional rules of procedure to participate in the discussion. In conformity with the relevant provisions of the Charter and the rule cited by the representative of Spain, I propose to invite him to participate in the Council's discussion without the right to vote.

*At the invitation of the President, Mr. de Piniés (Spain) took a seat at the Council table.*

2. The PRESIDENT: In addition, I have also received a letter from the representative of Morocco, likewise requesting that he be invited to participate

in the current discussion in the Security Council. In accordance with the relevant provisions of the Charter, rule 37 of the provisional rules of procedure and the usual practice of the Council, I propose to invite him to participate in the Council's discussion, without the right to vote.

*At the invitation of the President, Mr. Slaoui (Morocco) took a seat at the Council table.*

3. The PRESIDENT: The Security Council will now begin its examination of the situation concerning Western Sahara and the letter dated 18 October from the representative of Spain. In this connexion, I wish to draw the attention of members of the Council to the text of a letter which I received yesterday from the representative of Morocco [S/11852].

4. The first speaker is the representative of Spain, on whom I now call.

5. Mr. de PINIÉS (Spain) (*interpretation from Spanish*): My delegation would like to thank the Council for the speed with which it has met to deal with the situation created by the announcement made by His Majesty the King of Morocco to conduct a march of 350,000 people to invade Western Sahara.

6. The march on the Sahara announced by the King of Morocco constitutes an act of force, prepared and carried out by Moroccan subjects and authorities in order to jeopardize the territorial integrity of the Sahara and to violate an internationally recognized border. To carry out such a march as it has been conceived would constitute an act which is internationally unlawful, runs counter to the principles and purposes of the Charter, and is in contradiction to the resolutions of the General Assembly on the decolonization of the Sahara.

7. Any one of the members of the Council can imagine what would happen if their country were invaded by a human mass four times larger than its population. Where would they be quartered? How would they be supplied? Who would protect them? Who would feed them? All of this has no sense. In this connexion, let me recall that to invade is to enter a place by force; however peaceful the purposes may be, it is a violation of a border against the aims of the authority entrusted with its defence and with the defence of its population.

8. My delegation would like to point out to the Council that the Sahara is a Non-Self-Governing Territory under Spanish administration, the decolonization of which was to be concluded this year, in accordance with the statement made by my Government, in my letter of 20 August 1974 to the Secretary-General,<sup>1</sup> when it accepted the provisions of General Assembly resolution 3162 (XXVIII). This aspect of the decolonization of the Territory will follow the normal course in the Fourth Committee and in the plenary meetings of the General Assembly, the competent body in which all the interests involved can be harmonized.

9. As a result of the events to which I shall refer later on, and in view of the publication of the report of the 1975 United Nations Visiting Mission to Western Sahara<sup>2</sup> and the advisory opinion of the International Court of Justice of 16 October 1975,<sup>3</sup> it would be advisable to speed up the action required to terminate the Spanish presence in the Territory.

10. In my statement I shall deal with the friction created, the seriousness of the situation and the danger which it implies for international peace and security, and particularly for peace and security in the region. It is not surprising to anyone that we shall have to refer to some of the factors in the decolonization process because perhaps if the Council knows about them it will be in a better position to act in the situation which has arisen.

11. It is no secret that my country desires to terminate the process of decolonization of the Territory. Towards this end, the aforementioned statement<sup>1</sup> established a period covering the first six months of 1975 so that the referendum recommended by the General Assembly could be held to decolonize the Territory. For reasons which are not relevant at this time, Morocco began a campaign of international agitation, accusing Spain of attempting by such a process to establish a puppet State, and that therefore the United Nations could not accept such an attempt. Nothing could be further from the truth, because the process of self-determination was to be in accordance with resolution 3162 (XXVIII).

12. However, the General Assembly, after many debates and in order to obtain additional criteria, adopted resolution 3292 (XXIX) which contains the following points: first, a request for an advisory opinion of the International Court of Justice; second, a petition to the administering Power to postpone the referendum; and third, a request for the sending of a visiting mission to the Territory, in accordance with our invitation. The referendum was postponed; the International Court of Justice has handed down its advisory opinion and the Visiting Mission has also published its report.

13. During this year several statements have been made by Moroccans who have attempted to maintain

a situation of agitation in the Territory. Because of their threats. I brought them to the notice of the Secretary-General in letters dated 6 May, 14 July and 25 August of this year [*S/11857, annexes I-III*].

14. I shall refer to some points in those letters. In the declarations made by His Majesty King Hassan II on 28 April to the French broadcasting station France Inter, which were widely publicized by international press agencies, His Majesty said, among other things and in connexion with the presence of Moroccan armed forces on the Sahara border:

“Why are we keeping that army there?” [in the southern area of Morocco] “For two reasons: first, to affirm the Moroccan presence; in addition, and above all, to provide a framework—at all levels—for the inexorable march which the Moroccan people will not fail to undertake, with their King at their head, if embittered or frivolous persons should seek to initiate the process of self-determination in the Sahara.”

And later on he said: “Even if the Sahara situation decays, that can only benefit Morocco”.

15. On 17 June 1975, in his inaugural speech to the High Council of National Promotion and for the Development Plan, the King said: “The recuperation of the Western Sahara is a matter of life or death for Morocco”. He added: “We must face it with a smile and with great confidence, even if we have to go to the battlefield”.

16. On 8 July of this year, at the Festival of Youth at Marrakech, His Majesty said “The battle to recuperate our Sahara has begun politically and militarily”.

17. I should like to recall the fact that since 13 December 1974, the date on which resolution 3292 (XXIX)—which I referred to earlier—was adopted and side by side with the statements I have just mentioned, a series of incidents has occurred, instigated from outside, and some very serious, jeopardizing peace and security in the Territory. I reported all these events promptly to the Secretary-General in my notes of 9 and 29 July and 8 August 1975.

18. With regard to those incidents, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples indicated<sup>4</sup> that it could see that:

“There was a tense situation on the frontier between Spanish Sahara and Morocco, as well as in the Territory, where there have been a number of incidents which have resulted in several deaths and injuries and the capture of prisoners. This

general state of tension, with its repercussions and ramifications in the neighbouring countries, clearly endangers the maintenance of peace and security in the region."

19. Moreover, in paragraphs 262, 263 and 264 of the report, it is stated:

"262. The Spanish authorities have reported a series of incidents on the frontier with Morocco, some of which occurred while the Mission was in the Territory but most occurring after its departure. These consisted mainly of exchanges of gunfire and attacks on forts. On 8 June, a unit of 44 men under the command of a captain, all Saharans, was reportedly captured by Spanish troops while attempting to occupy the post of Mahbés. The Spanish authorities stated that documents found in their possession indicated that they were one of four companies of the Moroccan army which had been ordered to occupy four posts near the frontier, but the Government of Morocco denied this, stating that they were a unit of FLU [*Front for Liberation and Unity*].

"263. On 24 June, a vehicle carrying a Spanish officer and four soldiers was destroyed by a mine near the post of Tah, 3 kilometres from the frontier and 27 kilometres from Daora. All the occupants were killed. The post of Tah had been under attack on several occasions prior to this occurrence.

"264. Between the end of June and mid-August, a series of incidents took place on or near the frontier with Morocco. These included armed attacks on the post of Tah and another post at Hausa, as well as several clashes with Spanish military patrols. On 22 July, an armed detachment consisting of a sergeant and 15 men was captured by a Spanish patrol in the vicinity of Hagunia. Further bombings in El Aaiún were also reported."

Incidentally, let me say that those 16 soldiers captured in Hagunia belonged to the regular Moroccan army, and that they were returned to the Moroccan Government on 15 October, as a gesture of goodwill.

20. The postponement of the referendum and the repeated incidents, with all the additional burden of responsibility that involved for the administering Power, led the Spanish Government to communicate to the Secretary-General its decision to terminate its presence in the Territory, believing that it had completed the mission entrusted to it. This information is contained in a letter from me to the Secretary-General dated 23 May 1975.<sup>5</sup>

21. My Government also stated that it would terminate its presence without leaving a vacuum, and would therefore transfer power to those who were to assume responsibility for the administration of the

Territory. In order that the responsibilities of the administering Power would not be unduly complicated, we invited the representatives of Algeria, Morocco and Mauritania to a conference, with a view to involving them in the process of decolonization. That meeting, convened by the Spanish Government, could not be held because of the opposition of the Government of Morocco.

22. My Government accordingly requested the Secretary-General to convene this conference under his auspices. This proposal also met with no success. My Government asked the Secretary-General to send a personal representative or observers to the Territory. This initiative also failed, perhaps because of a question of competence, but perhaps this is the time to take this step on the authority of the Security Council.

23. My delegation, aware that any delay in decolonizing this Territory will increase tension, attempted to speed up the publication of the report of the Visiting Mission. In any case, the already published report contains some conclusions which should be studied, because if they were adopted and complied with by the neighbouring countries, tension would decline. The Security Council should issue an appeal in terms of the conclusions of the Special Committee,<sup>4</sup> which read as follows:

"In order to create a climate favourable to the peaceful decolonization of the Territory, all the concerned and interested parties should agree by common accord to:

"(a) Recognize the responsibility of the administering Power with regard to the Territory during the crucial stage in the decolonization process and give it all necessary co-operation in the discharge of its responsibility;

"(b) Avoid taking any initiative of any kind which might change the *status quo* of the Territory as it exists at present;

"(c) Stabilize the number of troops in the Territory and on the frontiers by not reinforcing them with men, arms and equipment;

"(d) Ensure that the existing troops abstain from committing provocative acts either by their movements or by ambushes, mine-laying, armed commando strikes, sabotage and so forth;

"(e) Abandon the press campaign which the parties have unleashed against each other through the mass media and which does not facilitate the search for a peaceful solution of the question;

"(f) Abstain from, and if necessary discourage, any action likely to contribute to a worsening

of the situation in the Territory or of the relations among the concerned and interested parties.”

24. Why is it that at this precise moment the tension has reached such a peak that an urgent meeting of the Security Council is needed? On 16 October the President of the International Court of Justice, at a public hearing, read the advisory opinion,<sup>3</sup> which in paragraph 162 contains the following conclusions:

“The materials and information presented to the Court show the existence, at the time of Spanish colonization, of legal ties of allegiance between the Sultan of Morocco and some of the tribes living in the territory of Western Sahara. They equally show the existence of rights, including some rights relating to the land, which constituted legal ties between the Mauritanian entity, as understood by the Court, and the territory of Western Sahara. On the other hand, the Court’s conclusion is that the materials and information presented to it do not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco or the Mauritanian entity. Thus the Court has not found legal ties of such a nature as might affect the application of resolution 1514 (XV) in the decolonization of Western Sahara and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory.”\*

25. Despite the clear terms of that paragraph, the Moroccan authorities have drawn from it the following surprising conclusion:

“As a conclusion, the opinion of the Court can only mean one thing: the so-called Western Sahara was a part of Moroccan territory over which the sovereignty was exercised by the Kings of Morocco and that the population of this territory considered themselves and were considered to be Moroccans.

“Morocco, therefore, finds its legitimate demands confirmed by the International Court of Justice, and sees as a consequence that no other consideration could alter the Court’s conclusion.

“Morocco considers that its territorial conflict with Spain has been decided on, unequivocally and without any ambiguity. As a result, no other conclusion of debates bearing a political character and not motivated by the rigorous aspects of rights, can change the spirit of the conclusions that the International Court of Justice has just communicated to the General Assembly.

“Today, Moroccan demands have been recognized by the legal advisory organ of the United Nations.

“However, it is up to Morocco to draw the necessary conclusions.”\*

That is the text of the press release issued by the Permanent Mission of Morocco to the United Nations on 16 October.

26. Recognition of “ties of allegiance” between the Sultan of Morocco and some of the tribes inhabiting Western Sahara cannot possibly be given the interpretation claimed by the delegation of Morocco. The advisory opinion of the Court on this question should be related to what Morocco asked.

27. In paragraph 90 of the advisory opinion, the Court defines the Moroccan claim as follows:

“Morocco’s claim to ‘legal ties’ with Western Sahara at the time of colonization by Spain has been put to the Court as a claim to ties of sovereignty on the ground of an alleged immemorial possession of the territory. This immemorial possession, it maintains, was based not on an isolated act of occupation but on the public display of sovereignty, uninterrupted and uncontested, for centuries.”\*

28. The Spanish thesis on this point was precisely the contrary. This being the situation, I am obliged, to avoid confusion, to repeat the cogent conclusion of the Court in paragraph 162 of its opinion with regard to the Moroccan claim:

“... the Court’s conclusion is that the materials and information presented to it do not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco or the Mauritanian entity. Thus the Court has not found legal ties of such a nature as might affect the application of resolution 1514 (XV) in the decolonization of Western Sahara and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory.”\*<sup>3</sup>

29. In view of the Moroccan thesis that decolonization of the Sahara should be achieved through application of the principle of territorial integrity—paragraph 6 of resolution 1514 (XV)—the Court stated there were no historical legal ties that would justify the non-application to the Saharan population of the principle of self-determination. Thus the Moroccan claim—that, on the basis of an alleged Moroccan sovereignty at the moment of Spanish colonization, the General Assembly should decide to implement paragraph 6 of resolution 1514 (XV) on territorial integrity—has been clearly and categorically denied.

30. This denial is what led to the present crisis, and, in this connexion, I should like to refer to my letter dated 25 August 1975, in which I communicated to the Secretary-General some paragraphs of the

\* Quoted in English by the speaker.

speech made by His Majesty the King of Morocco on 20 August as reproduced in and commented upon by the Moroccan press and by various international agencies. In this connexion, UPI reported as follows:

“If we fail in the diplomatic battle then I will address a message to you, dear people, and I will that day don a military uniform symbolic of our decision because I want to be the first combatant if necessary.”

“The King added: ‘I remain pessimistic because our chances of recovering our land are only 50 per cent. Thus we must be prepared to do everything to attain our goal.’ ”\*

Reuters said:

“The King said Morocco was at present adopting a wait and see attitude until the World Court published its opinion, expected in October.”

“‘But whatever the result, Morocco will recover its rights over its despoiled provinces no later than towards the end of this year,’ the King said.”\*

31. This attitude of His Majesty the King, already announced in the month of August, demonstrates that the present crisis has been deliberately prepared, forestalling the advisory opinion of the International Court of Justice, which could not do otherwise than deny their unfounded claims. If to this we add the fact that the report of the Visiting Mission also reaffirmed the right to self-determination of the Saharan people in accordance with the doctrine established by the General Assembly, we have an explanation for this attitude, which, with a total lack of responsibility, is seriously endangering international peace and security and the peaceful development of the decolonizing process.

32. Moreover, in paragraph 3 of its resolution 3292 (XXIX), the General Assembly requests the administering Power to postpone the referendum until the Assembly

“decides on the policy to be followed in order to accelerate the decolonization process in the Territory, in accordance with resolution 1514 (XV), in the best possible conditions, in the light of the advisory opinion to be given by the International Court of Justice.”

Similarly, in paragraph 72 of its opinion, the Court says:

“As to the future action of the General Assembly, various possibilities exist, for instance with regard to consultations between the interested States, and the procedures and guarantees required for

ensuring a free and genuine expression of the will of the people. In general, an opinion given by the Court in the present proceedings will furnish the General Assembly with elements of a legal character relevant to its further treatment of the decolonization of Western Sahara.”\*

33. Why is Morocco being so hasty? Why does it not wait until the decolonizing process has been concluded? Why does it not wait until the General Assembly decides what policy should be followed in the light of the advisory opinion of the Court and the report of the Visiting Mission in accordance with resolution 3292 (XXIX)? Why does the Moroccan Government attempt, by its attitude, to place itself in open rebellion against what has been stipulated by the General Assembly? Is it because the International Court of Justice and the report of the Visiting Mission reaffirm the principle of self-determination that Morocco has the right to begin a march on the Sahara? For what purpose? Why? Is it to provoke a catastrophe? It is alleged that this is a peaceful march. Does this not constitute the violation of a border? The very statement by the King, by listing the facilities available to the invaders and by indicating that they might resort to their right of legitimate self-defence in the Saharan Territory against foreign forces, clearly proves that the march does not have peaceful aims. Let us not forget that on that border there is a powerful Moroccan army which has already caused many incidents and is already acting in a war-like fashion to prepare for this invasion.

34. In this connexion, let me report to the Council the fact that on the 18th of this month, that is to say the very day that, on behalf of my Government, I requested the convening of this meeting of the Council, three vehicles belonging to a unit of the Spanish army were damaged by several mines in an area close to the Moroccan border and one soldier was killed while a captain and three soldiers were seriously wounded. In this connexion, let me say that we do have information which enables us to state that Moroccan terrorists have been systematically placing a considerable number of mines, some irregularly and insidiously and others one by one, at points where people must pass on the roads leading to El Aaiún and the surrounding territory. These mines, by their number and location, are a serious threat to transit. To those mines placed by terrorists, we have to add the ones which the Moroccan army has already placed on its territory along the entire length of its border. What is Morocco attempting to do with this massive emplacement of mines? To blow up its own citizens if they go into Western Sahara and then place the blame on my country? In publicly denounce this and, on behalf of my country, decline all responsibility.

35. My country for its part is very much aware of the obligations incumbent upon us under Article 73

\* Quoted in English by the speaker.

of the Charter of the United Nations. In this connexion, let me recall the fact that that Article stipulates:

“Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

a. To ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;...

c. To further international peace and security;”.

36. In accordance with the obligations I have just mentioned, Spain will meet the responsibilities incumbent upon it, and publicly denounces to the Security Council the intolerable threats of the Government of Morocco, and requests that the Council act immediately. My Government believes that it will be necessary, as a matter of urgency, to send a mission to find out what the Government of Morocco intends to do with regard to its recent announcement that it will march on the Sahara. My Government invites any mission appointed by the Council to go to my country, to contact the Spanish Government and to proceed to the Territory. Without prejudice to the report that the mission must speedily adopt, the Council must take those measures which it considers appropriate to prevent the march. In view of the urgency of the matter, and the fact that the march has been announced for the 21st, my Government hopes that the Council will direct an urgent appeal to the King of Morocco to refrain from carrying out this invasion.

37. In any case, on behalf of my Government, I refuse to accept any responsibility for what may occur since the Charter requires us, as the administering Power, and so long as we hold that position in the Territory, to protect the Saharan people against any abuse. It has been a very difficult thing for me to come to the Council and to accuse a country with which we have and hope to continue to have very close and friendly relations. We have very close connexions with Morocco and with all of the Arab world and, more particularly at this time, with the countries of the Sahara.

38. We believe that the Saharan people is a noble people entitled to exercise its right to self-determination. We would like to co-ordinate the interests of

all the parties involved so that peace, tranquillity and security in the world may be achieved. We believe that solutions can easily be found. With regard to decolonization, the Fourth Committee still must deal with the item on Western Sahara. All together, by common agreement, we could find a joint solution, but until that occurs we do not believe that it is possible to accept this kind of threat or this kind of invasion which jeopardizes peace and security. The people of the Sahara is a courageous, worthy people, respectful of the rights of others. That is why it hopes that others will also show respect for its own rights which today have been recognized by two organs of this world community.

39. The PRESIDENT: I now call on the representative of Morocco.

40. Mr. SLAOUI (Morocco) (*interpretation from French*): May I be allowed first of all, before going into the substance of this discussion, and particularly before replying to the various statements, assertions or allegations made by the representative of Spain, which I shall probably do during a forthcoming meeting, to submit to the consideration of the Council the opinion of the Government of the Kingdom of Morocco on the urgency of Spain's request that this matter be examined.

41. This has not allowed me properly to inform my Government nor to receive the necessary instructions needed to give a complete exposition of our view on the question before us. The amount of time which was given to me appears to have been quite obviously insufficient to allow me to make the necessary arrangements required by the seriousness of the accusation levelled by the Spanish Government against the Kingdom of Morocco. But such a state of urgency is all the less justified in view of the fact that the request which we are now considering is, in the eyes of the Government of the Kingdom of Morocco, premature at the present stage of the situation.

42. Indeed, according to Article 35 of the Charter, to which Spain has referred,

“Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council.”

and according to Article 34,

“The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.”

43. Furthermore, according to rule 3 of the provisional rules of procedure of the Security Council,

"The President shall call a meeting of the Security Council if a dispute or situation is brought to the attention of the Security Council under Article 35."

44. Since the Spanish Government has itself referred to Article 35 in connexion with this matter, it is not difficult to note that this Article, like those that supplement it or that determine the conditions of its application, makes the convening of the Security Council subject to the previous existence of a dispute or a new situation. We consider that in this particular case this condition has not been met.

45. There can be no doubt that there is a dispute between Spain and Morocco in connexion with the Sahara. However, this dispute is neither topical nor novel. This is a dispute which arose immediately after the Kingdom of Morocco gained independence, when the latter requested that Spain restore to it the territories which it occupied and Spain refused to accede to that request. This dispute has existed since 1957. It was at the basis of the surrender by Spain to Morocco of the province of Tarfaya and the enclave of Ifni. It was made official, in 1974, in General Assembly resolution 3292 (XXIX), which notes its existence. It was legally recognized by the International Court of Justice, which referred to its existence in its Order of 22 May 1975<sup>6</sup> when it authorized Morocco to designate an *ad hoc* judge in the Court.

46. It is perhaps fitting to recall that Morocco, faithful to its commitments towards the United Nations, has always respected the decisions of the Organization, has regularly subscribed to its resolutions, has been constant in advocating peaceful means and for 10 years now has sought within the Organization to obtain the recognition of its rights through existing methods and procedures.

47. When the United Nations invited the administering Power to initiate negotiations with a view to the decolonization of the Sahara, as indicated in General Assembly resolution 2072 (XX), Morocco stated its readiness to negotiate but was unable to do so because of the inertia evinced by Spain. And when subsequently the United Nations adopted a series of resolutions designed to bring about the decolonization of the Territory, it was again Spain which regularly thwarted the implementation of these resolutions by the lack of concern which it showed about them.

48. Thus the administering Power has for 10 years turned a deaf ear to all the relevant resolutions that were adopted. During that long period, rather than co-operate in an objective spirit with the United Nations in order to bring about the authentic liberation of the Territory, Spain devoted itself to seriously perverting the conditions surrounding the implementation of the resolutions that were adopted.

49. It is thus perfectly clear that all the delays which have occurred in the process of decolonization are attributable to Spain, just as are also attributable to Spain the transformations which have occurred in the Territory and which have led to making any attempt at self-determination illusory. Furthermore, let it be said that self-determination is not the only possible solution. This is something that has been regularly maintained by Morocco for many years, and this is the idea which prevailed during the past session of the General Assembly.

50. In 1974, Morocco and Mauritania stressed before the General Assembly on many occasions the fact that, far from promoting the liberation of the colonized peoples, the administering Power had on the contrary endeavoured to subject them, resorting, in particular, to the classical procedure of so-called representative assemblies. It stepped up its military and economic control. It intended to make of the referendum which it wished to bring about, with the blessing of the United Nations, an instrument which it could wield according to its own whims and which it would use when the time was ripe and according to its own desires in order to elicit a response the outcome of which would be known in advance. Of course, this process of so-called decolonization, which, in any case, has constantly been delayed, involved no negotiation with Morocco or Mauritania, parties concerned; and the United Nations itself could intervene only by way of endorsing something already decided upon by the administering Power.

51. Morocco and Mauritania, furthermore, recalled that Western Sahara had never existed as a legal entity and that it had always been an integral part of one or the other of the two States. The Sahara therefore had a dual specific character: specific because for thousands of years it belonged to Morocco and Mauritania; specific because of the Spanish enterprises which at every turn modified the political conditions of the Territory.

52. It is precisely this specific nature of Western Sahara which prompted the General Assembly, in resolution 3292 (XXIX), to seek an advisory opinion from the International Court of Justice on certain legal aspects of the problem. The Court was requested to state whether Western Sahara was a *terra nullius* when it was colonized; and, if not, to state whether there were legal ties with Morocco and Mauritania and what the nature of these ties was. In adopting resolution 3292 (XXIX), the General Assembly first of all sought information about the legal status of the Territory when it was colonized. It is unthinkable to argue that this preliminary investigation initiated by the General Assembly was ordered without any definite purpose and that, whatever the reply of the Court should be, the principle of self-determination would subsequently be endorsed and applied. On the contrary, the General Assembly, in the light

of the advisory opinion which was to be handed down, intended to advocate specific steps of a political nature, and particularly respecting and observing the fundamental right of the territorial integrity of Morocco and Mauritania.

53. There really can be no doubt that resolution 1514 (XV) stipulates the principle of the right of peoples to self-determination. But it also lays down the principle of respect for the unity and territorial integrity of States. And we are aware that the United Nations has regularly opted for the application of the second of these principles whenever the two have come into conflict in any particular case.

54. Furthermore, the scope of application of these two principles is not the same. The principle of self-determination applies in all cases where it is a question of decolonizing a Territory having no known ties with another State. As far as the principle of territorial integrity is concerned, it must necessarily be applied whenever we are dealing with a Territory which did belong to another State and which is still under colonial occupation. It was precisely in order to be able to invoke such a rule that Morocco and Mauritania turned to the International Court of Justice; it was in this context as well that the General Assembly consulted that highest international tribunal.

55. The Court has now handed down its opinion. That opinion indicates that the Sahara, which was not a *terra nullius*, actually had legal ties with Morocco and Mauritania when it was colonized. The Court has recognized and stated the existence of the Sahara's legal ties of allegiance with Morocco, and links of a territorial nature with Mauritania. Those two countries therefore rightfully claim that the principle of national unity and territorial integrity should be applied in this case. Hence they are perfectly justified in requesting that the opinion of the Court should lead to agreement and negotiations between themselves and the administering Power. It is in this context that we have to view the statement made by His Majesty the King on 16 October.

56. There can be no doubt that the dispute over the Sahara is between Spain, on the one hand, and Morocco and Mauritania, on the other. Now, according to Article 33 of the Charter of the United Nations:

"The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

"The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means."

57. But by its deeds and by its attitudes, Spain persists in seeking to perpetuate an uneasy situation in order to bring about the only solution which will serve its interests, and that is self-determination. And it is acting thus not only to the detriment of the peoples concerned; but above all in violation of the most elementary principles of the United Nations, particularly Article 33 of the Charter, to which I have just referred, as well as General Assembly resolution 1514 (XV) itself.

58. The statement made by His Majesty the King of Morocco on 16 October did not, in any event, create a new dispute: it is the same litigation which the United Nations is considering. It would be vain to attempt to assert that the implementation of the royal decision, announced on 16 October, risks threatening the maintenance of international peace and security. Actually, the articles invoked by Spain itself, which I have quoted just now, necessarily suggest the occurrence of a dispute which creates a new situation—which is obviously not the case. Just as there is no new dispute, there is no situation in this connexion which could lead to international friction. The idea of a new situation presupposes the emergence of a material fact which in some way modifies the aspect or the nature of existing relations.

59. An analysis of the letter of 18 October [S/11851], by which Spain requested the convening of the Security Council, makes it easy to realize how awkward it has been for its authors to justify their request. It first of all affirms that "owing to the statements made by His Majesty King Hassan II... a situation of international friction has arisen",—whereas we know that this friction has always existed, and that the royal speech has not created any new dispute, as we have already established.

60. It is then claimed that Morocco is planning an "invasion" of the Sahara, which is not in accord with the facts. If "invasion" is defined as the belligerent infiltration by the armed forces of one State of the territory of another, it is clear that the action undertaken by Morocco cannot be thus described, since it is simply a question of Moroccans returning to their homeland. Can going home be described as an invasion?

61. It has thus been established that the conditions laid down in Articles 34 and 35 of the Charter and in rule 3 of the provisional rules of procedure of the Security Council for that organ to meet are not met in this particular case. The request submitted by Spain, at the present stage of events, is thus totally premature. Nothing justifies, therefore, the haste with which Spain has seen fit to convene the Security Council, and even less the state of emergency which it has alleged.

62. However, through Spain's own fault, Morocco finds itself invited, upon abnormally short notice, to

participate in a discussion which deserves careful reflection before it is embarked upon, and perhaps in debates which would be clearer and more consistent if Morocco had the necessary time for preparation in keeping with the importance of the subject on which the Council is meeting. As we have established, the question is a serious one, and requires patient research and an attitude based on the facts. At the present stage in the development of the affair, we do not believe that the members of the Security Council can blame Moroccans for going back to their homes.

63. All these facts lead us to believe that the United Nations will undoubtedly refuse to act immediately upon Spain's request in view particularly of the past which is fraught with so many serious consequences that have been bequeathed and modified by colonialism. With the Council's permission, I shall have occasion to return to this matter when the debate goes into the substance. Under these circumstances, I feel that at the present stage of events postponement of the consideration of this matter to a later date would seem desirable. This request for postponement is all the more justified, since the question of substance is not of concern to Morocco alone.

64. Morocco and Mauritania have mutually recognized each other's rights in the Sahara before the General Assembly during its twenty-ninth session. These rights, of a territorial nature, have been formally sanctioned by the International Court of Justice. Those two States therefore have an undeniable community of interests, since it is for them a matter of their territorial integrity.

65. Mr. EL HASSEN (Mauritania) (*interpretation from French*): The problem of the Sahara is, as you know, one which directly and acutely touches the Mauritanian Government and people. Indeed, it is a matter of lands which are an integral part of our national soil—for more than one reason.

66. Historically, the inhabitants of the Sahara under Spanish administration have always belonged to the Mauritanian or Shinguitti group of countries. They were part of its political and economic organization, as well as a cultural part of it. They are in fact members of the same families, which the caprices of colonialism split between two administrations: French and Spanish. This is a rather widespread phenomenon in Africa, you will say, but here the element of nomadic wandering lends particular dimension and acuteness to the problem.

67. The most outstanding proof of the homogeneity of these two Mauritanian regions which have been unduly separated by colonialism is the fact that to this day the peoples living on each side of the border are the object of administrative census-taking by both the Islamic Republic of Mauritania and by Spain. This is not done deliberately nor is it motivated by any political designs. But anyone wishing to be

objective would find it impossible to draw a line of demarcation between these populations. It is impossible to say where, geographically or in human terms, the Islamic Republic of Mauritania stops and where the Sahara under Spanish administration begins. Is it not true that the Visiting Mission, which recently made public the first part of its report,<sup>2</sup> in fact emphasized the fact that there are no Saharan refugees in Mauritania? It would be incomprehensible for a son to be considered as a refugee in the house of his father, or for a mother or father to be considered as refugees in the home of their children. This is self-evident and logical.

68. The peoples of the Sahara merge with the Mauritanian population and are in the midst of their kin when they are in Mauritania, and the same thing happens to Mauritanians when they are in the Sahara. This is a reality that no one here can contest; it is an everyday reality which the United Nations Visiting Mission was not able to pass over in silence.

69. Another proof, a historical one, of the homogeneity of these Mauritanian regions is the fact that the missions which were sent by Spain to the Sahara in the second half of the last century were carried out under the protection of the Emir of Mauritanian Adrar. It was thanks to him and to his political authority that the Spaniards were able to set themselves up in the Sahara after having signed protectorate treaties with the Mauritanian tribes. It is on the basis of these treaties—and this deserves to be underlined—that the International Court of Justice, in its advisory opinion of the 16th of this month, considered that the Sahara was not a territory without a master, because it was inhabited by peoples which, while they were nomads, were socially and politically organized and were under the authority of the competent chiefs who were able to represent them. In its Royal Order of 26 December 1884, Spain itself proclaimed that the King was taking Río de Oro under his protection, on the basis of the agreements concluded with the tribal chiefs.

70. Which are the tribes that permitted Spain to set itself up in the Sahara? They are the Oulad Bu-Sba, the Oulad Oeïm, the Regheibat and other tribes of Mauritanian Adrar which are today administered by the Mauritanian Government, although living mainly in territory under Spanish administration.

71. We can see, therefore, that the Spanish colonization, which only came into effect as of 1934, was never able to change this homogeneity in the entire Mauritanian north-west. Up to the present day, the borders between the independent part of Mauritania and the section which is under Spanish administration only exist on maps and do not correspond to any reality. As I am now speaking to you, all of our brothers who are administered by Spain and who are gaining their livelihood from pastoral activities—and they constitute the majority—are at the very heart of

the Islamic Republic of Mauritania, among their kin, in search of pasture land. They are following a seasonal movement which occurs regularly and which goes in both directions.

72. Geographically, the Territory which is administered by Spain falls precisely within the limits of Mauritania. It therefore constitutes an enclave whose entire body and, I would say, whose entire soul belong within the country. The language is the same, the customs, social, political and cultural habits are strictly identical with and exclusive to the Islamic Republic of Mauritania and to the major part of the territory of the Sahara. It was on the basis of these many links that in July 1957 the Prime Minister of Mauritania, even before we achieved independence, stated that the first priority of our country was to perfect its unity and its independence by integrating the Sahara. Mauritania has never relinquished this fundamental position, and the United Nations documents and those of all the relevant international conferences amply prove, if need be, the firmness and the constancy of this position.

73. If the Mauritanian Government has based itself on historical, cultural, geographical, social and economic links in order legitimately to claim the integration of the Sahara, it can only be further confirmed in the legitimacy and the correctness of its position following the recent advisory opinion of the International Court of Justice.<sup>3</sup> With regard to that opinion of the International Court of Justice, the National Political Bureau of the Mauritanian People's Party published the following communique, which I shall read out:

"The National Political Bureau, during a special meeting on 16 October 1975, was informed of the opinion handed down that day by the International Court of Justice with regard to the question of Western Sahara. On that occasion it was able to reaffirm the constant position of the Government of the Islamic Republic of Mauritania with regard to that question. In this connexion, it would like to recall that, from 1957 and even before the country acceded to international sovereignty, the head of the Mauritanian State, Moktar Ould Daddah, basing himself on human, cultural, historical and geographical facts, clearly indicated that Western Sahara was an integral part of the national territory. This position has since then regularly and unswervingly been affirmed by Mauritania, both within the United Nations as well as on other occasions when this problem arose. The National Political Bureau has just heard that the International Court of Justice, in the opinion that it published today with regard to the Western Sahara, has recognized the existence of juridical links between Mauritania and Western Sahara and of rights, including some rights with regard to land. It expresses its deep satisfaction that the International Court of Justice—whose opinions morally commit the international com-

munity—has recognized the existence, at the time of the colonial occupation of the Sahara, of juridical links between it and the Mauritanian group. The opinion of the International Court of Justice can only further confirm the legitimacy of the position of the Islamic Republic of Mauritania with regard to the question of Western Sahara and its pursuit of the policy which it has followed for 18 years to recover its rights by the reunification of our territory, a reunification which is so deeply hoped for by our peoples on both sides of the borders, which were artificially drawn by colonization. The National Political Bureau, which invites all the Mauritanian peoples to close ranks and to mobilize to protect our independence, has decided to undertake a large campaign of information and explanation with regard to the question of Western Sahara, a campaign which will begin by a mass meeting to be held at Nouakchott on Monday, 20 October"—that is to say, today—"presided over by the members of the National Political Bureau, and continued throughout the entire national territory by the organization of mass meetings at the level of federations, sections and party committees."

74. The National Political Bureau was pleased to hear this opinion of the Court precisely because the most competent judicial organ at the international level has recognized by a vote which was the largest in the proceedings instituted—15 votes to 1—that our country does have juridical links with the Sahara and rights, including territorial rights. That can only mean the exercise by my country of political authority over the territory at the time of its colonization.

75. It has been said that these ties do not include any sovereignty, perhaps as Western law understands the term. But if one reads paragraphs 151 and 152 of the advisory opinion, one becomes fully aware of the importance and the decisive character of the legal ties which unite Mauritania with the Sahara, in relation to the process of decolonization. In paragraph 151, the opinion of the Court reads as follows:

"The language employed by the General Assembly in Question II does not appear to the Court to confine the question exclusively to those legal ties which imply territorial sovereignty. On the contrary, the use of the expression 'legal ties' in conjunction with 'Mauritanian entity' indicates that Question II envisages the possibility of other ties of a legal character. To confine the question to ties of sovereignty would, moreover, be to ignore the special characteristics of the Saharan region and peoples to which reference has been made in paragraphs 87 and 88 above, and also to disregard the possible relevance"—and I would emphasize this—"of other legal ties to the various procedures concerned in the decolonization process."<sup>3</sup>

Therefore, as far as the Court is concerned, the legal ties uniting the Sahara with Mauritania are

pertinent and should be considered in the light of the special characteristics of the region and peoples concerned.

76. The Court further spelt out its thinking in paragraph 152 of its opinion when it said the following:

“The information before the Court makes it clear that the nomadism of the great majority of the peoples of Western Sahara at the time of its colonization gave rise to certain ties of a legal character between the tribes of the territory and those of neighbouring regions of the Bilad Shinguitti. The migration routes of almost all the nomadic tribes of Western Sahara... crossed what were to become the colonial frontiers and traversed, *inter alia*, substantial areas of what is today the territory of the Islamic Republic of Mauritania. The tribes, in their migrations, had grazing pastures, cultivated lands, and wells or water-holes in both territories, and their burial grounds in one or other territory. These basic elements of the nomads’ way of life, as stated earlier in this opinion, were in some measure the subject of tribal rights, and their use was in general regulated by customs. Furthermore, the relations between all the tribes of the region in such matters as inter-tribal clashes and the settlement of disputes were also governed by a body of inter-tribal custom. Before the time of Western Sahara’s colonization by Spain, those legal ties neither had nor could have any other source than the usages of the tribes themselves or Koranic law.” —And I feel that the Court, here also, stressed an extremely important factor, which should be recalled—“Before the time of Western Sahara’s colonization by Spain, those legal ties neither had nor could have any other source than the usages of the tribes themselves or Koranic law. Accordingly, although the Bilad Shinguitti has not been shown to have existed as a legal entity, the nomadic peoples of the Shinguitti country should, in the view of the Court, be considered as having in the relevant period possessed rights, including some rights relating to the lands through which they migrated. These rights, the Court concludes, constituted legal ties between the territory of Western Sahara and the ‘Mauritanian entity’, this expression being taken to denote the various tribes living in the territories of the Bilad Shinguitti which are now comprised within the Islamic Republic of Mauritania. They were ties which knew no frontier between the territories and were vital to the very maintenance of life in the region.”<sup>3</sup>

77. In other words, the International Court of Justice has recognized that Mauritania does have rights over the Sahara, including territorial rights relating to the nomadic routes of the Shinguitti tribes. Now, there routes covered a large part of the Sahara, normally corresponding to the region of Sakiet El Hamra. The Court has stated that these links were essential elements in maintaining the life of the region. How

could it be otherwise when we know that the Mauritanian lands in the Sahara, their permanent and temporary watering places, their pasture-lands, their arable lands, and so forth, are the indispensable means of existence and constitute the property of the population in the strictest sense of the word.

78. Mauritania therefore thinks that it is more than ever justified in demanding respect for its territorial integrity and the unity of its people. We would find it perfectly legitimate to seek the restoration of our rights if the assistance of the international community, in particular the United Nations, were lacking despite the correctness of our cause and, from now on, the legal validity of our position. My country therefore hopes that the United Nations will take the steps required by the need for an urgent solution, with due regard for the rights of the States concerned—that is, Morocco and Mauritania—to territorial integrity and national unity.

79. We have always sought for such a solution within the context of the United Nations, because we have faith in the Organization, because we believe in the virtues of peaceful means, and because we have always sought to enjoy the moral support and the political backing of the Organization. But when we see the United Nations turning towards a solution—and only one solution—which has been prefabricated and which, in its consequences and implications, will threaten the very existence of our country, we cannot justly be blamed for being concerned about our territorial integrity and the unity of our people. These are the feelings motivating the Islamic Republic of Mauritania, and it is undoubtedly the same feelings that are motivating the Kingdom of Morocco.

80. In fact, the subject of the present meeting is the peaceful action that the Moroccan Government plans to take in the northern part of the Sahara. Before giving the point of view of my Government on this action, I shall describe the problem, and indicate its outlines and its limits.

81. We all know that the Kingdom of Morocco has also claimed the Sahara on the grounds of the exercise of sovereignty because Morocco was the only structured State in the sub-region when the Spanish colonization took place. Mauritania, for its part, has recognized that Morocco does, in fact, have legal ties of great importance with the territory. To be precise, these are ties between the Sultan of Morocco and certain of the tribes which lived in the region of the northern Sahara. The Court, in paragraph 102 of its opinion, clearly states:

“Mauritania does not oppose Morocco’s claim to have displayed its authority in some, more northerly, areas of the territory. Thus it does not dispute the allegiance at that time of the Tekna confederation to the Sultan, nor Morocco’s claim

that, through the intermediary of Tekna caids in southern Morocco, it exercised a measure of authority over Tekna nomads who traversed those areas of Western Sahara."<sup>3</sup>

82. The Court further notes, at the end of paragraph 105, that Mauritania considers these Tekna septs to have been in "Moroccan fealty". The Court concluded, quite correctly, that there did exist ties of allegiance between the Sultan and those tribes. Therefore, these are nomadic Tekna septs whose nomadic journeys take them into the interior of the Sahara under Spanish administration. These legal ties recognized by Mauritania, and later by the International Court of Justice, as existing for Morocco, and within relatively specific limits, appear to establish rights for Morocco over certain peoples living in the northern Sahara. The proposed peaceful action by the Government of Morocco seems to us designed to bring law into accordance with reality in one very limited region of the Sahara under Spanish administration.

83. That being so, and by virtue of the fact that Mauritania has recognized that Morocco possesses these rights, we can hardly blame the Government of Morocco for planning the peaceful restoration of the rights I have referred to. In the same way, Morocco could hardly blame Mauritania if the latter decided to resort to other peaceful means, including the United Nations, in order to obtain its legitimate rights, in the Sahara under Spanish administration, rights which have been recognized not only by Morocco but also by the International Court of Justice.

84. My country, however, remains convinced—and I should like to emphasize this—that the most appropriate framework and the most suitable means are still to be found within the United Nations. The latter can help the Kingdom of Morocco, Spain and Mauritania to find together the most politically viable solution to the problem of the Sahara, with due regard for their interests and their rights to territorial integrity, and also the views of the peoples concerned. We believe that the Security Council can make a positive contribution in this sense.

85. The PRESIDENT: I call on the representative of Spain who has asked to speak in exercise of his right of reply.

86. Mr. de PINIÉS (Spain) (*interpretation from Spanish*): I shall be extremely brief because I should like to reserve my right to speak on a later occasion to answer the statements made by the representatives of Morocco and Mauritania. In any case, what I should like to do now is to urge the Security Council not to lose sight of what we are attempting to obtain as a result of convening this Council meeting.

87. The representative of Morocco has referred to the problem of decolonization. There is no controversy between Morocco and Spain with regard to

Western Sahara, but in any case, this topic is before another body of the United Nations, that is to say, the General Assembly, and not this forum, the Security Council.

88. The same could also be said to the representative of Mauritania. All the comments he has made have already been taken into account by the International Court of Justice. Today that opinion has been distributed, and at is in your possession. What is important, in our view, is that first the General Assembly, in its resolution 3292 (XXIX), and now the international Court of Justice have reaffirmed the right to self-determination of the Saharan people, denying that any links which might exist give any of the claimant countries a right of sovereignty over the Territory. That is what is important. Now, how do we go about solving this problem? Through self-determination.

89. I have acted in accordance with my rights and on instructions from my Government. Friction has been caused between Morocco and Spain by the announcement of a march which will invade the Sahara with 350,000 people—a number four times the size of the Saharan population—and this implies serious danger. What my Government would like to know is whether the Government of Morocco will refrain from conducting this march. Everything else, the whole problem dealt with by the International Court of Justice, has already been judged and conclusions have been drawn. The problem of decolonization will be dealt with in the Fourth Committee and in plenary meetings of the General Assembly. Here we are dealing with the friction which has been caused by the announcement of an invasion of a Territory which has been entrusted to us by the Charter of the United Nations. We must face that situation. We know how to act in accordance with the Charter, but we believe that the Council should help us and should discharge its responsibilities by indicating to us how we can act in order to confront the invasion. I believe that what is necessary is an urgent appeal to have the cause of friction removed. What has caused the friction? Announcement of an invasion of the Territory. I am not interested in people saying that their purposes are peaceful. Those who have peaceful purposes should stay at home. That is the best solution for any of these crises and tension. To go into a territory where it is impossible to accommodate a human mass of 350,000 people is absurd, to say the least. Therefore we ask that the Security Council help us.

90. The territory north of the border is sown with mines. Within our own territory Moroccan terrorists have sown many mines. Prevention is better than cure. We want His Majesty the King of Morocco to refrain from conducting this planned invasion, which I repeat, cannot be defended on the grounds that its purposes are peaceful. Any country asks for documents, for visas, when someone arrives at its border. In the case

of such vast numbers—four times the population of the Territory—this can be a serious problem.

91. On behalf of my Government, I ask the Security Council, which I feel is competent in this regard, for its backing and help. That is why I have unfortunately had to come to the Council under Article 35 of the Charter of the United Nations. I do not think anybody needs to interpret this. My Government is interpreting the Charter, and it is quite clear what is there.

92. The PRESIDENT: I want to inform the Council that the delegation of Costa Rica has submitted a draft resolution, which is available in Spanish only at the moment but which will be available in all languages around 3 o'clock. I call on the representative of Costa Rica who, I gather, is prepared to read it so that we can have it translated by the interpreters.

93. Mr. SALAZAR (Costa Rica) (*interpretation from Spanish*): My delegation has indeed submitted to the

Council for its consideration a draft resolution which I shall now read out:

*"The Security Council,*

*"Without prejudice to such measures as it may in due course adopt,*

*"Demands, as a matter of urgency, that the Government of Morocco, desist immediately from the proposed march on Western Sahara." [S/11853/Rev.1.]*

*The meeting rose at 12.55 p.m.*

*Notes*

<sup>1</sup> A/9714.

<sup>2</sup> *Official Records of the General Assembly, Thirtieth Session, Supplement No. 23, vol. III, chap. XIII, annex.*

<sup>3</sup> *Western Sahara, Advisory Opinion, I.C.J. Reports 1975, p. 12.*

<sup>4</sup> *Official Records of the General Assembly, Thirtieth Session, Supplement No. 23, vol. III, chap. XIII, sect. B.*

<sup>5</sup> A/10095.

<sup>6</sup> *Western Sahara, Order of 22 May 1975, I.C.J. Reports 1975, p. 6.*

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