



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/6700/Add.9*
28 November 1967

ORIGINAL: ENGLISH

Twenty-second session
Agenda item 23

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

(covering its work during 1967)

Rapporteur: Mr. Mohsen S. ESFANDIARY (Iran)

CHAPTER X

GIBRALTAR

CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
I. ACTION PREVIOUSLY TAKEN BY THE SPECIAL COMMITTEE AND THE GENERAL ASSEMBLY	1 - 4	3
II. INFORMATION ON THE TERRITORY	5 - 16	4
III. CONSIDERATION BY THE SPECIAL COMMITTEE	17 - 103	7
Introduction	17 - 18	7
A. Written petitions	19	7
B. General statements	20 - 103	7
IV. ACTION TAKEN BY THE SPECIAL COMMITTEE	104 - 218	4c

* This document contains chapter X of the Special Committee's report to the General Assembly. The general introductory chapter will be issued subsequently under the symbol A/6700 (Part I). Other chapters of the report are being reproduced as addenda.

CONTENTS (continued)

ANNEXES:

- I. REPORT OF THE SECRETARY-GENERAL
- II. LETTER DATED 6 SEPTEMBER 1967 FROM THE PERMANENT REPRESENTATIVE
OF THE UNITED KINGDOM ADDRESSED TO THE SECRETARY-GENERAL
- III. LETTER DATED 25 OCTOBER 1967 FROM THE PERMANENT REPRESENTATIVE
OF THE UNITED KINGDOM ADDRESSED TO THE SECRETARY-GENERAL
- IV. LETTER DATED 30 OCTOBER 1967 FROM THE DEPUTY PERMANENT
REPRESENTATIVE OF SPAIN ADDRESSED TO THE SECRETARY-GENERAL

I. ACTION PREVIOUSLY TAKEN BY THE SPECIAL COMMITTEE
AND THE GENERAL ASSEMBLY

1. The Special Committee began its consideration of Gibraltar in 1963 and 1964. On 16 October 1964, the Committee adopted a consensus in which it noted that "there was a disagreement, or even a dispute between the United Kingdom of Great Britain and Northern Ireland and Spain regarding the status and situation of the Territory of Gibraltar" and invited the above-mentioned Powers to begin talks without delay, in accordance with the principles of the United Nations Charter, in order to reach a negotiated solution in conformity with the provisions of General Assembly resolution 1514 (XV) giving due account to the opinions expressed by the members of the Committee and bearing in mind the interests of the people of the Territory. The United Kingdom and Spain were further requested to inform the Special Committee and the General Assembly of the outcome of their negotiations.^{1/} The texts of notes exchanged between the two Governments were reproduced as appendices to the report of the Special Committee to the General Assembly at its twentieth session.^{2/}
2. In resolution 2070 (XX), adopted on 16 December 1965, the General Assembly invited the Governments of Spain and of the United Kingdom to begin without delay the talks envisaged under the terms of the above-mentioned consensus and to inform the Special Committee and the General Assembly at its twenty-first session of the outcome of their negotiations.
3. The Special Committee again considered the question of Gibraltar at meetings held during November 1966 at which time it had available the texts of further correspondence between the two Governments.^{3/} On 17 November 1966, it adopted a resolution whereby, taking into account the willingness of the administering Power and the Government of Spain to continue the negotiations, it: (a) called on the two parties to refrain from any acts which would hamper the success of the negotiations; (b) regretted the delay in the implementation of General Assembly

^{1/} Official Records of the General Assembly, Nineteenth Session, Annexes, annex No. 8 (part I), (A/5800/Rev.1), chapter X, para. 209.

^{2/} Ibid., Twentieth Session, Annexes, addendum to agenda item 23, (A/6000/Rev.1), chapter XI, appendices.

^{3/} A/6242, A/6277 and A/6278.

resolution 1514 (XV) with respect to the Territory; (c) called on the two parties to continue their negotiations in a constructive way and to report to the Special Committee as soon as possible, and in any case before the twenty-second session of the General Assembly; and (d) requested the Secretary-General to assist in the implementation of the resolution.^{4/}

4. At its twenty-first session, the General Assembly adopted resolution 2231 (XXI) of 20 December 1966, the operative paragraphs of which read as follows:

"1. Regrets the delay in the process of decolonization and in the implementation of General Assembly resolution 1514 (XV) with regard to Gibraltar;

"2. Calls upon the two parties to continue their negotiations, taking into account the interests of the people of the Territory, and asks the administering Power to expedite, without any hindrance and in consultation with the Government of Spain, the decolonization of Gibraltar, and to report to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples as soon as possible, and in any case before the twenty-second session of the General Assembly;

"3. Requests the Secretary-General to assist in the implementation of the present resolution."

II. INFORMATION ON THE TERRITORY^{5/}

5. Information on the Territory is contained in the reports of the Special Committee to the General Assembly at its eighteenth, nineteenth, twentieth and twenty-first sessions. Supplementary information is set out below.

^{4/} A/6500/Add.8, chapter XI, para. 66.

^{5/} This section was originally reproduced in document A/AC.109/L.419. This information has been derived from published sources and from the information transmitted to the Secretary-General by the United Kingdom of Great Britain and Northern Ireland under Article 73 e of the Charter, on 1 September 1966, for the year ending 31 December 1965.

Constitutional developments

6. There were no constitutional changes effected during the period under review.

Negotiations between the United Kingdom and Spain

7. An account of the state of the negotiations between the United Kingdom and Spain appears in the report of the Secretary-General of 17 July 1967 which is annexed to the present chapter.

Economic conditions

8. Gibraltar, which has no agriculture or other primary resources, is largely dependent on tourism, re-exports and the work provided by the dockyard, the Departments of the Armed Services, the Government and the City Council.

9. In particular, efforts are being made to develop the tourist industry. They include the expansion of hotel and restaurant facilities, the promotion of various types of business and other conferences and festivals, the construction of an aerial ropeway to the top of the Rock, etc.

10. The main sources of government revenue are customs and excise. Revenue for the year 1965 totalled £1,848,407 and expenditure amounted to £2,536,800 which included expenditure met out of the Improvement and Development Fund amounting to £518,618. The largest item of expenditure in 1965 was social services (including rehousing and town planning), amounting to £1,294,800.

11. Following a visit of the Chief Minister, Sir Joshua Hassan and the Minister without Portfolio, Mr. Peter Isola to London in July 1965, the United Kingdom Government announced that it was making available £1 million in Colonial Development and Welfare grants for development in Gibraltar over the next three years and also a further £200,000 in Exchequer loans should they be required. In addition, £100,000 would be made available as a special grant-in-aid. This was not actually brought to account until early 1966. The total of £1,100,000 in grants and £200,000 in loans during the years April 1965-March 1968 compares with a Colonial Development and Welfare allocation of £400,000 previously made available for the three years ending 31 March 1966. It was announced in November 1966 that the United Kingdom Government was allocating a further £600,000 in addition to the .

£1 million previously allocated in Colonial Development and Welfare grants for an expanded development programme. The United Kingdom Government had also agreed, subject to parliamentary approval, to provide a special grant-in-aid of £100,000 to Gibraltar's budget in 1967.

Social conditions

12. It is estimated that approximately two thirds of the labour force consists of alien non-domiciled workers, the majority of whom live in neighbouring Spanish territory and who enter daily by road from La Linea or by sea from Algeciras under frontier documents issued and controlled by the authorities on both sides of the frontier. Since 1964, however, the flow of workers from neighbouring Spanish territory has tended to diminish while the influx of other non-Spanish labour has tended to increase.

13. In 1965 there were eight doctors practising under government and local authority services and eleven private doctors in Gibraltar. Recurrent expenditure on public health in 1965 was £274,875 by the Government and £33,691 by the local authority. Capital expenditure was £7,612 and £1,820 respectively.

Educational conditions

14. Education in Gibraltar is compulsory and free in government schools for children between five and fifteen years of age. As at the end of 1965, primary education was provided in twelve government schools and three private schools. In addition, there were six government secondary schools and two technical schools, the latter being the Gibraltar and Dockyard Technical College for boys and the Commercial School for girls. There is no higher education in Gibraltar but Gibraltarians with the necessary qualifications are granted scholarships and grants for further study overseas, mostly in the United Kingdom.

15. Total enrolment in schools as at the end of 1965 was 5,125 children out of a total population of 25,270 civilian residents. Of this number, 3,315 were enrolled in primary schools, 1,686 in secondary schools and 124 in the technical schools.

16. Recurrent government expenditure on education in 1965 was £208,663 while capital expenditure relating to buildings amounted to approximately £20,000 with new works started but not completed estimated at about £90,000.

III. CONSIDERATION BY THE SPECIAL COMMITTEE

Introduction

17. The Special Committee considered Gibraltar at its 543rd to 550th meetings held at Headquarters between 22 August and 1 September 1967. It had before it a report by the Secretary-General concerning the implementation of General Assembly resolution 2231 (XXI) of 20 December 1966 (see annex I).

18. In a letter dated 22 August 1967 (A/AC.109/258), the Deputy Permanent Representative of Spain to the United Nations requested that his delegation be allowed to participate in meetings of the Special Committee at which Gibraltar would be discussed. The Committee decided, without objection, to accede to that request.

A. Written petitions

19. The Special Committee had before it the following written petitions concerning Gibraltar:

<u>Petitioner</u>	<u>Document Number</u>
Mr. Julian Palomo Jiménez	A/AC.109/PET.645
Sir Joshua Hassan, Chief Minister of Gibraltar, Mr. P.J. Isola, Deputy Chief Minister, and others	A/AC.109/PET.704
Mr. Daniel Fernandez	A/AC.109/PET.705
Mr. Alfredo Bentino	A/AC.109/PET.706
171 petitions concerning Gibraltar	A/AC.109/PET.714-883
Mr. Carlos Manuel Larrea, President, and eighteen members of the <u>Instituto Ecuatoriano de Cultura Hispanica</u>	A/AC.109/PET.884
Mr. Andrés Townsend Ezcurra, Secretary-General of the Latin American Parliament	A/AC.109/PET.900

B. General statements

20. The representative of the United Kingdom said that most of the developments concerning the question of Gibraltar which had occurred since the adoption of General Assembly resolution 2231 (XXI) on 20 December 1966 were fully covered in the Secretary-General's report (see annex I). It might be useful, however, to recall the salient features of the current situation and to outline the main developments which had led up to it. Three main conclusions could be drawn - the first negative and the other two positive. The first conclusion was that, to his

delegation's regret, the continued negotiations between the United Kingdom and Spain called for in General Assembly resolution 2231 (XXI) had not taken place. Secondly, by its decision to hold a referendum in Gibraltar, the United Kingdom Government had made an important contribution towards the implementation of resolution 2231 (XXI) and other relevant resolutions of the General Assembly and the Special Committee. Thirdly, the result of the referendum would be an important new factor in deciding on the appropriate steps to be taken thereafter. His statement would be in the nature of an interim account, and a fuller report to the Special Committee, as required under General Assembly resolution 2231 (XXI), would be made when the result of the referendum was known. The Special Committee might, therefore, wish to suspend any substantive judgement on the longer-term aspects of the Gibraltar question until then.

21. A few days before the adoption of General Assembly resolution 2231 (XXI), the Spanish Government had rejected a United Kingdom proposal that the various legal issues which had emerged during the negotiations should be referred to the International Court of Justice and had reverted to its earlier proposal that Gibraltar should be incorporated in Spain under a bilateral convention and "statute". Following the adoption of resolution 2231 (XXI), the United Kingdom Government had taken the initiative in proposing a further round of talks to discuss possible methods of decolonizing Gibraltar, and the Spanish Government had agreed that those talks should take place on or about 18 April 1967. Six days before the talks had been due to begin, however, the Spanish Government, without any prior consultation, had published an order establishing in the immediate vicinity of Gibraltar a prohibited air zone in which all flying was banned, thus hampering access to Gibraltar. The timing of the announcement was clearly not accidental; indeed, similar restrictions on access to Gibraltar had been introduced on two earlier occasions - first in October 1964, the day after the Special Committee had adopted its consensus recommending negotiations between the United Kingdom and Spain, and again in October 1966, five days before a further round of bilateral talks between the United Kingdom and Spain had been due to begin. It was with such acts in mind that the Special Committee, in its resolution of 17 November 1966 (A/6300/Add.8, chap. XI, para. 66), had called upon the two parties to refrain from any acts which would hamper the success of negotiations,

and that the General Assembly had included in its resolution 2231 (XXI) the final preambular paragraph regretting the occurrence of certain acts which had prejudiced the smooth progress of negotiations. Since the declaration of the prohibited air zone in April 1967 had clearly and deliberately introduced a new element into the situation in Gibraltar and had been designed to prejudice the interests of the people of Gibraltar, the United Kingdom Government had considered it a matter of priority to establish the practical implications of that announcement before proceeding with the consultations, and it had therefore postponed the talks. The effects of the prohibited air zone on civil aircraft had already been discussed in the Council of the International Civil Aviation Organization (ICAO) and the matter would be raised in that organization by the United Kingdom as a dispute within the terms of article 84 of the Chicago Convention. In the course of discussions held at Madrid between 5 and 8 June 1967 at the suggestion of the United Kingdom Government, the Spanish representatives had declined to discuss the question of the prohibited air zone without prior acknowledgement by the United Kingdom Government of Spanish sovereignty over the territory on which Gibraltar airfield was situated. It was clear, therefore, that the prohibited air zone would in fact interfere with air navigation at Gibraltar. The Spanish Government's repeated allegations, during the past year, that United Kingdom aircraft had violated Spanish air space had all been fully investigated by the United Kingdom Government, and in only three instances had the allegations proved justified. Gibraltar airfield had been used by British aircraft for many years, yet, significantly, it was only in the past year that such allegations had been made so repeatedly and with such studied publicity.

22. Those were the reasons why the negotiations called for in General Assembly resolution 2231 (XXI) had not taken place. His Government's position on the issue was clear and consistent; it favoured talks, it deplored the obstruction of talks by the Spanish Government, and it regretted the imposition by the latter of obviously unacceptable pre-conditions for the holding of further talks on political matters, or even on the prohibited air zone. After the referendum, there would still be a wide range of subjects for fruitful discussion between the two Governments.

23. The principal element in the present situation was the United Kingdom's announcement that a referendum would be held in Gibraltar. The terms of the referendum had been communicated to the Secretary-General and were reproduced in his report (see annex I, paras. 15 and 16). There were two choices offered to the people of Gibraltar, namely, to pass under Spanish sovereignty in accordance with the terms proposed by the Spanish Government on 18 May 1966, or voluntarily to retain their link with Britain, with democratic local institutions and with Britain retaining its present responsibilities. The announcement of the referendum had been immediately welcomed by the elected representatives of the people of Gibraltar and by public opinion generally in the Territory. It was most important that the people of Gibraltar should be asked to say where their own interests lay, since those interests, according to Chapter XI of the Charter, were paramount and since General Assembly resolution 2231 (XXI) had called upon the United Kingdom and Spain to take them into account. The United Kingdom Government had offered the Spanish Government facilities to explain its proposals to the people of Gibraltar and try to convince them that the arrangements it proposed would be in their best interests, and had also expressed its readiness to welcome a nominee of the Spanish Government to observe the referendum, but so far the Spanish Government had declined both invitations as unacceptable and had stated its disagreement with the referendum and its unwillingness to concede any validity to its results. The Spanish Government had likewise rejected a further offer by the United Kingdom to consider any views it might wish to put forward on the formulation of the first alternative in the referendum. The United Kingdom still hoped, however, that the Spanish Government would decide to accept the offers, but even if it did so the position of the United Kingdom Government would remain one of complete impartiality as between the two alternatives presented in the referendum, in order to allow the people of Gibraltar a completely free choice.

24. The second alternative offered in the referendum was obviously a limited choice. Under the Treaty of Utrecht, Gibraltar could not be alienated from the British Crown without first being offered to Spain. Thus, the practical choices open to the people of Gibraltar were restricted. Similarly, the area of British responsibilities referred to in the second alternative reflected the United Kingdom Government's concern for legitimate Spanish interests in the immediate

vicinity of Gibraltar. It had been made clear, however, that if the people chose the second alternative the United Kingdom Government would be ready to discuss with their representatives any appropriate constitutional changes which might be desired.

25. The referendum would be held on 10 September, and the entitlement to vote would be restricted to persons of Gibraltarian origin resident in the Territory who were over the age of twenty-one years. Out of a total resident population of some 25,000, therefore, about 12,000 persons would be registered as eligible to vote in the referendum, and the United Kingdom Government hoped that a high proportion would in fact do so.

26. As for the purposes of the referendum, the United Kingdom Government regarded it as an important, though not necessarily a final, stage in the process of decolonization. Moreover, it did not represent a final and irrevocable option on the part of the people of Gibraltar regarding the issue of incorporation in Spain; for even if a majority elected to retain the link with the United Kingdom, the people of Gibraltar would still retain the right to express by free and democratic choice their desire to join Spain. That undertaking went beyond the requirements of the Treaty of Utrecht. His delegation could only regret that the Spanish Government had not so far welcomed or recognized that important new step by the United Kingdom Government.

27. The referendum could be considered a significant step forward in the implementation of General Assembly resolution 2231 (XXI) paragraph 2; for it sought to establish, by popular vote, whether the Spanish proposals of 18 May 1966 were in accordance with the interests of the people of Gibraltar themselves. That question could not be determined by any outside body without reference to those whose future was at stake. The United Kingdom Government believed that, once that point had been clarified, further progress could be made towards the realistic achievement of the objectives of the General Assembly resolution, and it was fully prepared to hold further talks with the Spanish Government on the subject of Gibraltar.

28. Because the referendum was such an important step towards decolonization, the United Kingdom Government was most anxious that it should be conducted in conditions of absolute impartiality. To that end, it would welcome the presence of a Spanish observer, and he was glad to say that the Governments of certain Commonwealth countries and certain States Members of the United Nations had agreed to nominate

independent observers. The United Kingdom had also informed the Secretary-General that it would welcome the presence of any observer whom he might wish to send to Gibraltar for the referendum. That seemed especially appropriate in the light of Assembly resolution 2231 (XXI), and particularly of operative paragraph 3. 29. One reason advanced by the Spanish Government for its unwillingness to accept the referendum was that it would cause the reversion clause of the Treaty of Utrecht to come into operation, although in fact the holding of the referendum could not entail any interruption of British sovereignty over Gibraltar or any alienation of Gibraltar from the British Crown. However, the main criticisms of the Spanish Government seemed to centre on the unfounded assertion that the referendum violated resolution 2231 (XXI) and earlier resolutions of the General Assembly and of the Special Committee by implying that the people of Gibraltar were to say whether General Assembly resolution 1514 (XV) did or did not apply to Gibraltar. It was clear from the terms of resolution 2231 (XXI) that almost all Member States agreed that Gibraltar was a Territory within the scope of resolution 1514 (XV). The referendum would simply ask the people of Gibraltar to state whether or not it would be in their interests to be incorporated in Spain, on the terms offered by the Spanish Government. The clarification of their wishes on that point was certainly a step towards decolonization and was entirely consistent with General Assembly resolutions 2231 (XXI) and 1514 (XV).

30. The Spanish Government's concern with resolution 1514 (XV) seemed to rest exclusively on paragraph 6 of the Declaration. However, it was clear that, in framing paragraph 6, its authors had been essentially concerned not with the risks of dismemberment in sovereign States but with the possibility of dismemberment of existing Non-Self-Governing Territories or of such countries as the Democratic Republic of the Congo which, in December 1960, had barely emerged from colonial status. If paragraph 6 of the Declaration had any relevance to Gibraltar, it could only apply to the attempts of the Spanish Government itself to disrupt the territorial integrity and unity of Gibraltar by laying a claim to the southern part of the isthmus, which had been a part of Gibraltar for more than 100 years.

31. The United Kingdom Government had no doubt as to its legal sovereignty over Gibraltar, and indeed had offered to refer the Spanish Government's claim to the International Court of Justice and abide by its ruling.

32. Even if paragraph 6 of the Declaration could be interpreted as referring to the national unity of mature sovereign States, the Spanish case depended entirely on the thesis that Gibraltar was not a Non-Self-Governing Territory but a part of Spain. That view had certainly not been endorsed by the United Nations. On the contrary, the United Kingdom Government, year after year, had submitted information on Gibraltar under Article 73 e of the Charter, and the status of Gibraltar as a Non-Self-Governing Territory had been accepted in every competent organ of the United Nations.

33. If the Spanish Government really believed that Gibraltar was under Spanish sovereignty, Spain should accept the offer to resolve the question in the highest judicial organ of the United Nations. If, on the other hand, the argument was that Gibraltar was geographically a natural part of Spain, then by the same token it must be accepted that Lesotho and Swaziland were natural parts of South Africa, or Ifni a natural part of Morocco.

34. Moreover, the United Nations had not accepted the proposition that in the case of Gibraltar decolonization could only be brought about by integration with Spain. It was true that the Spanish Government had a standing in matters affecting Gibraltar, and that standing was recognized in the resolutions and was accepted by the United Kingdom Government.

35. While the Treaty of Utrecht limited the possibilities for decolonization through the normal formula of independence, there were other avenues of decolonization consistent with General Assembly resolution 1514 (XV). Integration with Spain would constitute decolonization only if it took place demonstrably in accordance with the wishes of the people of the Territory. To transfer Gibraltar to Spain against their wishes would not be decolonization, but a flagrant breach of all the principles of the Charter and of General Assembly resolutions.

36. There were other features of resolution 1514 (XV), besides paragraph 6 of the Declaration, that might be recalled. It was stated that all peoples had the right to self-determination and that the subjection of peoples to alien subjugation was a denial of fundamental human rights, and the importance of the freely expressed will of the peoples of Non-Self-Governing Territories was emphasized. It was against that background that one should view, first, the referendum, which allowed the people of Gibraltar to express their views as to where their interests lay in regard to one possible road to decolonization and, second, the Spanish proposition that such matters should be negotiated by the United Kingdom and Spanish Governments.

37. In implementation of General Assembly resolution 2231 (XXI), his delegation had endeavoured to present as full an account as possible of developments regarding Gibraltar on an interim basis. Its statement could not be considered a final report under the terms of the resolution, since that must await the outcome of the referendum. As for expediting the decolonization of Gibraltar, enough had been said to demonstrate that the referendum represented definite progress in that direction. The Spanish Government had been given an opportunity to explain its proposals to the Gibraltarians and had been invited to nominate an observer to the referendum. Moreover, the people of Gibraltar had been given a continuing option to modify their status by joining Spain. The United Kingdom Government had thus given full proof of its intention to take account of the interests of the people of the Territory. It would also be recalled that it had taken the initiative in arranging for a resumption of negotiations in April 1967. It could only regret that continued negotiations had been obstructed by the actions of others. Furthermore, whatever the results of the referendum, the United Kingdom Government still believed that there was a whole range of issues concerning Gibraltar that could be explored in direct talks with the Spanish Government within the framework of General Assembly resolution 2231 (XXI). It would be ready to take part in such negotiations, once the referendum had been held.

38. The representative of Spain said that General Assembly resolution 2231 (XXI), taken in conjunction with resolution 2070 (XX) and the Special Committee's consensus of 16 October 1964, not only made it quite clear that Gibraltar should be decolonized but also specified the manner in which the process should be conducted.

39. The colonial situation in Gibraltar called for the application of General Assembly resolution 1514 (XV), as the United Nations had requested. That resolution contained a Declaration consisting of seven paragraphs, the first of which stated that the subjection of peoples to alien subjugation was contrary to the United Nations Charter. However, the United Kingdom and the petitioners appearing before the Committee had said that the inhabitants of Gibraltar were not subjugated by the United Kingdom. The second paragraph set forth the principle that all peoples had the right to self-determination; however, neither the Special Committee nor the General Assembly had specified that that principle should apply to the civilian inhabitants of Gibraltar. Indeed, the 1964 consensus and General Assembly

resolution 2231 (XXI) merely stated that Spain and the United Kingdom should bear the interests of the inhabitants in mind. Paragraphs 3, 4 and 5 set forth principles for guaranteeing self-determination in cases to which paragraphs 1 and 2 applied. Consequently, only paragraph 6, supplemented by paragraph 7, offered a solution for the situation in Gibraltar. In connexion with paragraph 6, he would point out that the interpretation which the United Kingdom representative had placed on the implications of the scope given to it by the Assembly was not in keeping with the facts, as the records of the debates would suffice to show.

40. Continued British presence on a portion of Spanish soil was tantamount to the dismemberment of Spain's national unity and territorial integrity. As long as such dismemberment persisted, the colonial situation in Gibraltar would also persist, whatever formula was used to disguise it.

41. Although the United Nations did not consider the civilian inhabitants of Gibraltar to have the necessary qualifications for self-determination, it had laid down one important condition for the return of that Territory to Spain, namely, that the interests of the inhabitants should be respected by both the United Kingdom and Spain. That decision was quite in keeping with the statement contained in the report of the 1966 Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (A/6230, para. 502).

42. From the very outset, the Spanish Government had offered to respect the interests of the people of Gibraltar and had made a number of suggestions to the United Kingdom as to how those interests might be safeguarded. The United Kingdom Government had not stated what the interests of those inhabitants would be until 14 June 1967, when it had indicated that it considered one of the interests of the inhabitants of Gibraltar to be the right to take a decision regarding sovereignty over a Territory which it occupied. That decision by the United Kingdom had prompted Spain to request an opportunity to make a statement in the Special Committee.

43. When the negotiations recommended in General Assembly resolution 2070 (XX) had opened in London on 18 May 1966, his Government had proposed to the United Kingdom that two agreements should be concluded, one governing the interests of the inhabitants of Gibraltar and the other safeguarding the United Kingdom's interests. On the signing of those agreements, General Assembly resolution 1514 (XV) would have

become applicable, ending the dismemberment of his country's national unity and territorial integrity. The five meetings which had ensued had been negotiations in name only, and all the United Kingdom had done was to create obstacles to the process of decolonization, invoking legal and historical arguments and raising marginal issues. It had adduced new colonial rights over Spanish territory even more extensive than those conferred by the anachronistic Treaty of Utrecht, and it had finally proposed that the International Court of Justice should examine its colonial rights over the Rock before the United Nations resolutions were implemented. During the Special Committee's consideration of the situation in Gibraltar in November 1966, he had drawn attention to the United Kingdom's reluctance to negotiate and to the fact that it had gone so far as to claim sovereignty over a part of Spanish territory adjacent to the Rock, thereby committing a new act of aggression against Spain's territorial integrity.

44. The United Kingdom delegation had thereupon attempted to justify its proposal to refer the matter to the International Court of Justice by presenting a long list of accusations against Spain. Those accusations had already been advanced in 1965 as a pretext for refusing to negotiate, and again in 1966 to mask the United Kingdom's unwillingness to negotiate. It had come as no surprise that they had again been put forward during the present debate as an excuse for the United Kingdom's decision to break off the London negotiations on 13 April 1967.

45. His Government interpreted the Special Committee's resolution of 17 November 1966 as a clear indication that the United Nations felt that the decolonization of Gibraltar should proceed through negotiations between Spain and the United Kingdom, and not through recourse to the International Court of Justice. His Government had therefore explained to the United Kingdom why the question could not be submitted to the International Court and had proposed the immediate opening of negotiations for the drafting of a statute to protect the interests of the inhabitants of Gibraltar. The statute was to have become a formal agreement between the two countries, duly registered with the United Nations.

46. General Assembly resolution 2231 (XXI) had requested the United Kingdom to refrain from hindering the decolonization of Gibraltar, which should be undertaken "in consultation with the Government of Spain" and by means of negotiations "taking into account the interests of the people of the Territory". The provisions of the

resolution were identical to those of the Spanish Government's proposal to the United Kingdom six days earlier. By that stage, it had been clear that General Assembly resolution 1514 (XV) provided the only means of solving the question of Gibraltar, bearing in mind the interests of its inhabitants. The United Kingdom had never told Spain what those interests were and had not allowed the Gibraltarians themselves to do so.

47. In 1963 and 1964, Mr. Hassan and Mr. Isola, petitioners from Gibraltar, had requested the Special Committee to safeguard the inhabitants' right to self-determination; however, that right was to be exercised exclusively in order to perpetuate the colonial situation in the Territory which, as the petitioners had admitted, did not affect them. It was not until 17 December 1966 that Mr. Hassan had told the Fourth Committee what rights the inhabitants of Gibraltar wished to see protected. That had been the first indirect information regarding those rights which his Government had received. Mr. Hassan's statement (A/C.4/SR.1679) had confirmed the existence of two types of interests in Gibraltar - those affecting the Gibraltarians themselves, and those of the United Kingdom, which were best described as limited sovereignty over a military fortress on Spanish soil. On 18 May and 13 December 1966, his Government had proposed separate solutions to the problem of those different interests. If the United Kingdom had been ready to comply with General Assembly resolution 2231 (XXI), it would have been easier to solve the question of the purely Gibraltarian interests. At no time, however, had the United Kingdom given any indication that it was ready to open a civilized dialogue with Spain, as requested in the resolution. United Kingdom aircraft had continued to violate Spanish air space, and Spanish protests had been ignored. Furthermore, on 5 January 1967, the United Kingdom had informed his Government that it had acquired the right to avail itself of Spanish air space in the area of the Rock by virtue of its construction of a military airfield adjacent to Gibraltar. The United Kingdom had already attempted to colonize another part of Spanish territory on 12 July 1966, and its attempt to establish so-called rights in Spanish air space, on behalf of military aircraft operating from the Gibraltar airfield, had come sixteen days after the adoption of resolution 2231 (XXI).

48. The United Kingdom's claim and its endeavours to encroach on Spanish air space had made it more urgent than ever that Spain should protect its air space against military use by foreign countries. His Government had previously requested the establishment of a prohibited zone for air navigation in Spanish military air space around the Straits of Gibraltar. The United Kingdom's insistence on maintaining its base in Gibraltar demonstrated the strategic importance of the region. His Government had therefore approved a ministerial order establishing the prohibited air zone in Algeciras on 11 April 1967. The United Kingdom had used the existence of the prohibited zone as a pretext for disrupting the London negotiations, and the United Kingdom representative had attempted to show that the prohibited zone was a further example of Spanish hostility which was allegedly preventing negotiations. Such tactics were merely a repetition of those used in 1965 and 1966, when the United Kingdom had unsuccessfully attempted to persuade ICAO to condemn the prohibited zone as illegal. By submitting the problem of a prohibited zone to a technical organization concerned exclusively with civil aviation the United Kingdom had tried to disguise the exclusively military nature of the airfield, which was registered as a military airfield with ICAO. Moreover, the permission of the Royal Air Force was necessary for overflights of the area.

49. The United Kingdom had subsequently rejected a Spanish proposal for the joint modernization of the Gibraltar airfield - despite the fact that it was situated on territory usurped from Spain. By so doing, the United Kingdom had sacrificed the civilian traffic through the airfield, which would have brought many advantages to all parties concerned.

50. The Middle East conflict had given clear proof of the need for Spain to establish the prohibited zone. The policies of the United Kingdom and Spain in regard to that conflict had been different, and if it had spread the possibility of the military involvement of Gibraltar could not have been overlooked. The bombing of Gibraltar during the Second World War had caused many victims in the neighbouring Spanish city of La Linea. So long as a military base outside its control existed in Gibraltar, the Spanish Government must emphasize that it did not agree with the use made of that base.

/...

51. It was common knowledge that the United Kingdom had interrupted the negotiations for the decolonization of Gibraltar and had decided to hold a referendum in the Territory, without previous consultations with Spain as required in General Assembly resolution 2231 (XXI). The referendum was to be held in September 1967, and the United Kingdom had requested Spain and the United Nations to send observers. The questions to be put to the Gibraltarians amounted simply to asking them whether or not they wished to continue their present colonial status. The decision to hold a referendum violated not only the colonial Treaty of Utrecht but also the United Nations resolutions. It had been taken without consulting the Spanish Government, as operative paragraph 2 of resolution 2231 (XXI) required. The Spanish proposal that both countries should consult the Gibraltarians regarding the interests they wished to see safeguarded had met with no reply until 31 July 1967, although a Foreign Office spokesman had stated on 5 July 1967 that the United Kingdom would proceed with the referendum as planned. On 8 July the United Kingdom had indicated that it would not reply to the Spanish proposal; on 31 July, nevertheless, the United Kingdom Government had replied and had attempted to prove that the referendum was not a violation of General Assembly resolutions 2070 (XX) and 2231 (XXI). The reply was the most curious document yet received by Spain in connexion with the decolonization of Gibraltar. It stated that Gibraltar could not be considered part of Spain until the International Court of Justice so decided and that operative paragraph 6 of the Declaration did not, therefore, apply to the colonial situation in Gibraltar. It was clear, however, that the United Kingdom had taken a step greatly affecting the decolonization of Gibraltar and directed more against Spain than towards helping the Gibraltarians.

52. The referendum was tantamount to a defiance of the United Nations, whose decisions were not only ignored by the United Kingdom but were also subjected to the decisions of the inhabitants of Gibraltar after the referendum.

53. In April 1964, the United Kingdom had granted the British inhabitants a constitution setting up a "government" by promoting the Mayor of Gibraltar to the rank of Chief Minister. His delegation had denounced that stratagem in documents submitted to the Secretary-General. The United Kingdom had thus attempted to create the impression that the principle of self-determination was being applied

to Gibraltar, in the hope that the Special Committee would not renew its examination of the question. Although the adoption of resolution 2070 (XX) had marked the failure of that attempt, the referendum which the United Kingdom was now organizing was nothing more than the culmination of the 1964 manoeuvre. The United Kingdom Government had published an Order in Council on 28 June in connexion with the referendum, in which it was stated that the Order in Council was to be construed as one with the Constitution set out in the Gibraltar Constitution Order of 1964. That was an admission that the referendum was a part of the Constitution of 1964, which had been designed to present the Special Committee with a fait accompli. His delegation was sure that the Committee would not be deceived by such shabby tactics. The so-called United Kingdom policy of decolonization in Gibraltar was merely a series of manoeuvres designed solely to guarantee the permanence of the United Kingdom's presence on the Rock. The United Kingdom was attempting to obtain the United Nations approval for its policies; when it failed to do so, it defied the Organization's decisions.

54. The United Kingdom was linking its own interests in the referendum with the interests of the inhabitants of the Rock, by forcing the latter to defend the United Kingdom's military interests at the entrance to the Mediterranean in order to defend a particular way of life which they wished to preserve.

55. Petitioners from Gibraltar had expressed a desire that the military base in Gibraltar should continue, and the United Kingdom was now attempting to have the perpetuation of that base requested by the majority of its subjects on the Rock. It was doing so because it had two specific political objectives in organizing the referendum: first, to defend its military base, and, secondly, to convert its dispute with Spain into a dispute between Spain and the inhabitants of Gibraltar. In an attempt to defend its base, and believing that Spain would agree to permanent United Kingdom sovereignty, the United Kingdom had been fully prepared to abandon the inhabitants. On 23 May 1966 the Foreign Secretary, speaking in the House of Commons, had excluded the inhabitants of Gibraltar from the negotiations between the United Kingdom and Spain, and on 12 July 1966 the United Kingdom had proposed to Spain the reduction of the so-called Gibraltar government to a municipality.

Such action would have been tantamount to abandoning the stratagems employed in introducing the 1964 Constitution, which the United Kingdom was now trying to revive by means of the referendum. Moreover, when the Special Committee's resolution of November 1966 had completely ignored the inhabitants of Gibraltar, the United Kingdom had not protested but had merely abstained from voting. Yet, when Spain demanded the decolonization of the Rock in accordance with United Nations recommendations, the United Kingdom immediately invoked the interests of the inhabitants. It was natural that it should do so, since the sovereignty over the military base which the United Kingdom was now forcing the inhabitants of Gibraltar to defend was an essential part of its interests. As recently as 25 July 1967, the United Kingdom Minister of Defence had told the House of Commons that his Government intended to maintain its garrison, the airport, the shipyard and other installations in Gibraltar. The United Kingdom's prime military objective could hardly have been better expressed. The second aim of the referendum - that of setting the inhabitants of Gibraltar against Spain - emerged clearly from a statement by the Foreign Secretary to the House of Commons on 23 May 1966 to the effect that the aim of the negotiations with Spain was not the decolonization of Gibraltar, but rather the institution of civilized relations between Spain and Gibraltar. The United Kingdom was, in fact, employing its ancient tactics of "divide and rule". As in many other parts of the world, the United Kingdom was deliberately creating a complicated and explosive situation on the Rock. Its sole aim was to make sure that the dispute did not appear for what it was, namely, a colonial dispute between an occupying Power and a partially occupied country, but rather as a conflict between Spain and 25,000 peace-loving people who did not wish to be absorbed by Spain.

56. The referendum was based on the idea that the administering Power had obligations only towards colonized people who were in the process of being decolonized. In the eyes of the United Kingdom, the colonized people were the British inhabitants of the Rock, despite the fact that, in 1963, the latter had themselves told the Special Committee that they were not the victims of colonization.

57. The United Kingdom was attempting to persuade the United Nations and Spain that the Gibraltarians, subjects of Her Majesty installed after the occupation, should decide the future of the Territory. It was trying to prove that those subjects were the sole population of Gibraltar and the sole victims of the Gibraltarian colonial situation. According to that argument, Article 73 of the United Nations Charter would take priority over Article 2 (4), to which paragraph 6 of the Declaration on the Granting of Independence conformed. The interests of the inhabitants of Gibraltar, when bound up with the specifically military interests of the United Kingdom, were tainted with colonialism, and it was at that point that they were questioned by Spain.

58. When the Special Committee had considered the question of Gibraltar in 1964, it had been shown that the population established in Gibraltar after the British occupation had been virtually prefabricated by the United Kingdom. It was therefore important to know exactly who would be eligible to vote in the referendum. Of the current population of approximately 24,500, some 4,000 were United Kingdom or Commonwealth nationals, and approximately 2,000 were foreigners, mostly Spanish citizens. Thus, there were approximately 18,500 "true" Gibraltarians, all of whom were British subjects, entitled to vote in the referendum, a "true" Gibraltarian, according to the Gibraltarian Status Ordinance of 1962, being a person registered as a Gibraltarian. However, only persons born in Gibraltar on or before 30 June 1925, together with their wives and legitimate dependants, were eligible for inclusion in the register. The 1925 date was significant, since the first Indian child of parents who had settled in Gibraltar had been born after that date; naturally, the United Kingdom authorities had not wanted that child to enjoy the same privileges as the other British subjects who had come to the Rock to take the place of the expelled Spanish population. Furthermore, the same Ordinance provided that the Governor in Council might order the deletion from the register of any person if he was satisfied that such person had, within ten years of being registered, shown himself by act or speech to be disloyal towards Her Britannic Majesty. Although 13,572 persons had been eligible to vote in the election held in Gibraltar in May 1967, almost one half had abstained, despite the fact that the election had been vital for the future of the Rock. In the circumstances, the

outcome of the referendum was already clear, and no useful purpose would be served by sending either Spanish or United Nations observers merely to prove that a population controlled by London voted as London had decided.

59. The persons inscribed in the register did not, however, constitute the entire population of Gibraltar. Five thousand Spanish workers worked in Gibraltar but were not permitted to live there. Many of them were the descendants of workers who had also worked in Gibraltar. However, they and their families, totalling some 60,000 persons, would not be allowed to participate in the referendum, nor would the descendants of the true Gibraltarians expelled in 1704 living in the town of San Roque or the neighbouring peoples of El Campo. As the Mayor of San Roque had stated in 1964, any decision which ignored the fact that the Campo de Gibraltar was united geographically, demographically and economically with the Rock would be nonsensical. In view of the composition of the electoral roll, the United Kingdom could hardly invoke Article 73 of the Charter while ignoring Article 2 (4) of the Charter and paragraph 6 of the Declaration.

60. Furthermore, many of those inscribed in the register had acquired a "piéd noir" mentality and had become agents, rather than victims, of the colonial situation. The Gibraltarian publication Vox had intimated that the result of the discussions in the Special Committee on the question of Gibraltar was a foregone conclusion in favour of Spain; it had stated that Gibraltar must never disappear into "alien hands" and had called on the United Kingdom to adopt a "tougher policy". That was hardly the voice of a victimized people wishing to safeguard its interests.

61. In the circumstances, the United Kingdom's sole obligation towards the Gibraltarians was to facilitate free entry into the United Kingdom for those who did not wish Gibraltar to be decolonized - an obligation which the United Kingdom Government did not wish to assume. On the contrary, the United Kingdom immigration laws refused entry to the British subjects it wished to maintain on the Rock. An evasive reply had been given to a question asked in the House of Commons concerning the establishment of an entry quota for Gibraltarians, and the Home Secretary had clearly stated that Gibraltarians would not be allowed to enter the United Kingdom without restriction. Therefore, if the decolonization of Gibraltar took place in accordance with the foreseeable results of the referendum, it would be the first time that the loyal subjects of an occupying Power had decided upon the destiny of a colonial Territory - an arrangement which his Government expected that the United Nations would reject.

62. Fortunately, some Gibraltarians appeared to be more interested in preserving the cultural, social, religious and economic identity of the inhabitants of the Rock than in defending the military interests of the United Kingdom. According to a letter published in the Gibraltar Post of 12-13 August, the local Press had refused to publish a petition sent by a Gibraltarian to the United Kingdom Government concerning the untimeliness of the referendum. The tone of the letter gave some indication of the coercion probably exercised not only on the writer but on all Gibraltarians who felt that the best interests of Gibraltar would be served by Spanish-British understanding. The petition, which had been printed by Vox in its issue of 15 August 1967, had stated, inter alia, that no rational Gibraltarian should be asked to accept alternative (a) of the referendum, since the proposals did not set out terms of settlement which could be effectively accepted, and that, with regard to alternative (b), the suggestion that a negotiated solution between the United Kingdom and Spain would result in a severance of the links between Gibraltar and Britain and the abolition of democratic institutions in Gibraltar and would absolve Britain of its responsibilities was alarming, since Gibraltar would have to look mostly to the United Kingdom, following a settlement, for guarantees of the settlement and for its continued protection. The petition had gone on to express serious doubts concerning the extent to which the interests of the Gibraltarians were being advanced by the referendum, and had stated that those interests lay in a negotiated solution of existing differences - a solution which appeared to be excluded by the terms of the referendum as it stood. It had concluded by requesting the United Kingdom Government to reconsider its decision to hold a referendum and by further requesting that, if the referendum must be held, it should be with the express approval of the United Nations and with the full participation of Spain, which should bind itself to accept the result. If neither of those alternatives were possible, it requested that the terms of the referendum should be redrafted to meet the objections expressed.

63. The Spanish Government could not in all honesty ignore the terms of that petition, and it was ready to protect the religious, cultural, economic and sociological identity of the inhabitants of Gibraltar from all the consequences of decolonization. With that end in view, the Spanish Government had, in May 1966, proposed to the United Kingdom the signing of an agreement to protect the interests

of all the inhabitants of Gibraltar, whether or not they were inscribed in the register. In December 1966, it had reiterated that proposal and explained the need for establishing a statute for the inhabitants of Gibraltar. In July 1967, in its memorandum commenting on the United Kingdom referendum, the Spanish Government had proposed that the two countries should jointly consult the Gibraltarians on the interests they wished protected after the decolonization of Gibraltar. However, none of those proposals had been accepted, because they were based on the fact that Gibraltarian interests were distinct from the British interests involved. It was surely time to separate United Kingdom military and imperialist interests in Gibraltar from the specific interests of the Gibraltarians themselves. After that was done, Gibraltarian interests could be examined by Spain and the United Kingdom under the supervision of the Secretary-General and, once defined and guaranteed, they would fall within the scope of paragraph 6 of the Declaration. Needless to say, the United Kingdom referendum was not the most appropriate method of discovering what those interests were. The Special Committee and the General Assembly should therefore request it to refrain from holding the referendum. There were, after all, many interests involved; some non-Gibraltarian residents might well feel that they would wish to leave Gibraltar after decolonization, and Spain would be willing to examine their cases individually and to provide economic and other assistance if necessary. In addition, many British subjects, whether on the register or not, might not wish to remain in a Territory no longer under British sovereignty, and in that respect the United Kingdom Government had an obligation to allow them free entry to the United Kingdom. The interests of all who wished to remain on the Rock would be fully protected under the statute proposed by Spain.

64. The representative of Venezuela recalled that his delegation had stated its views on the question of Gibraltar on many occasions in the Sepcial Committee and the General Assembly. It considered that the problem was one to which General Assembly resolution 1514 (XV), and particularly paragraph 6 of the Declaration, was applicable. Basing itself on that paragraph, the General Assembly had decided that the most effective way of solving the problem was to invite the parties concerned to negotiate - a decision confirmed in its resolutions 2070 (XX) and 2231 (XXI). If the colonial problem of Gibraltar had not fallen within the scope of paragraph 6, the United Nations itself would have had the responsibility of supervising the Territory's evolution towards self-determination. It was precisely because the problem affected the territorial integrity of a Member State that the General Assembly had asked the parties to negotiate, thus achieving the decolonization of Gibraltar through the recognition by the United Kingdom of Spain's rightful sovereignty over the Territory.

65. History offered many examples of the kind of territorial ambitions which had brought about the situation in Gibraltar. Paragraph 6 of the Declaration provided a safeguard for countries which were unable to defend their rights or had had to acquiesce in the annexation of a part of their territory. When that paragraph had been adopted, the sponsors had made it clear that it meant that the principle of self-determination could never affect the right of any State to territorial integrity. It had also been pointed out that many territorial disputes could not be resolved through the application of the principle of self-determination because an equally important principle - that of the territorial integrity of a country - would then be violated. The referendum which the United Kingdom planned to hold in Gibraltar contravened paragraph 6 of the Declaration, and also the provisions of the Charter guaranteeing the territorial integrity of Member States. The words "the interests of the people of the Territory" in General Assembly resolution 2231 (XXI) were meant to indicate that the solution to the problem of Gibraltar could not be subject to the wishes of the population, because a colonial situation of the kind existing in Gibraltar affected the territorial integrity of a State. The principle of self-determination could not be used to set the seal of approval

on the plundering and injustices of the past. The Special Committee would be acting contrary to the interests of the international community if it allowed that principle to be used to perpetuate a colonial situation so gravely affecting Spanish territorial integrity. The decolonizing activities of the United Nations were guided by two basic principles: the defence of the inalienable right of peoples to freedom, self-determination and independence, and defence of the equally essential right of States to claim territories seized from them by force.

66. It was surprising and paradoxical that, while the United Kingdom was planning a referendum in Gibraltar, it was persisting in its refusal to hold one in the six Caribbean Territories, whose peoples' right to self-determination did not affect the territorial integrity of any country. The referendum could never affect the General Assembly's definition of the problem of Gibraltar; its only possible purpose was to grant the population of Gibraltar the right to perpetuate a colonial situation which violated Spain's territorial integrity. The Spanish Government agreed that the interests of the people of Gibraltar must be adequately safeguarded in the decolonization of the Territory and had proposed the drafting of a special statute guaranteeing those interests.

67. The representative of Iraq said that his delegation had welcomed the Special Committee's decision to give the question of Gibraltar the priority it deserved. The statements made by the representatives of the United Kingdom and Spain, and a study of the relevant General Assembly resolutions, showed the urgency and importance of that question, and the United Kingdom's request that detailed discussion of it should be postponed until after the referendum had been held could not, therefore, be entertained. If the Special Committee did not examine all pertinent information before the referendum was held, it would be helping the United Kingdom to disregard the role of the United Nations and frustrate the hopes of both colonial and freedom-loving peoples.

68. He agreed with the views expressed by the representative of Spain at the previous meeting in challenging the validity of the referendum, which violated the provisions of the General Assembly's resolutions and was based on a unilateral decision by the administering Power. Spain was right not to recognize the results

of the referendum, and the presence of a United Nations observer would be pointless if the referendum was conducted in the manner proposed. Furthermore, the administering Power had not recognized the fact that the relevant resolutions required consultations between it and the Spanish Government. The questions to be put to the voters were unacceptable, in that they neglected the decisions of the United Nations and were tantamount to asking the voters to decide Gibraltar's constitutional future.

69. The administering Power had a duty to do its utmost to liquidate its powers in Gibraltar; to that end, it should be dismantling its military, naval and air base, instead of planning unilaterally to hold a referendum. The base was a real threat to Spanish sovereignty, to international peace and to neighbouring countries. It was easy to understand what the United Kingdom hoped to gain from the referendum, the results of which were a foregone conclusion, since the decision to hold it, the date, the type and number of voters eligible to participate and the issues to be voted upon had all been decided unilaterally without consultation with Spain. All that was needed to make the referendum appear legitimate and authentic was the presence of a United Nations observer, but to send one would be an act of capitulation to the administering Power and an endorsement of its defiance of the United Nations.

70. His Government had placed high hopes in the negotiations between the two countries. The Spanish Government's willingness to implement General Assembly resolutions 1514 (XV) and 2231 (XXI) in good faith had been made crystal clear in documents and statements to the Committee. Spain's numerous practical suggestions had been met by the evasive stratagems of the administering Power. The referendum was a transparent manoeuvre threatening the whole future of the area. The United Kingdom's insistence on implementing similar illegal plans in other parts of the world, in defiance of United Nations decisions, had not ended in the victories which it had expected. He therefore hoped that the United Kingdom would reconsider its decision and negotiate an agreement with Spain, thus proving to the world that it genuinely wished to assist in the liberation of all colonial peoples and areas in co-operation with the United Nations.

71. His delegation wished to stress that it considered General Assembly resolution 1514 (XV) in its entirety to apply to Gibraltar, the future of which was governed by paragraph 6 of the Declaration.

72. The representative of Chile said the statements made by the representatives of the United Kingdom and Spain showed clearly that General Assembly resolution 2231 (XXI) was not at present being implemented. Since the adoption of that resolution, no progress had been made in the process of decolonization in Gibraltar and negotiations had not been continued. That was a matter for serious concern. Furthermore, the forthcoming referendum did not comply with the terms of United Nations resolutions since the only alternatives offered to the population of Gibraltar were acceptance of the proposals of the Spanish Government as a basis for agreement, or a continuation of the present colonial status under the United Kingdom. In the consensus adopted at the Special Committee's 291st meeting in October 1964 (A/5800/Rev.1, chapter X, paragraph 209), the United Kingdom and Spain had been invited to begin talks in order to reach a negotiated solution in conformity with the provisions of General Assembly resolution 1514 (XV), bearing in mind the opinions expressed in the Special Committee and the interests of the people of the Territory. Resolution 2070 (XX) had invited the two Governments to begin the talks without delay and resolution 2231 (XXI) had reaffirmed resolution 2070 (XX) and the consensus of October 1964.

73. From the decisions of the General Assembly, it was clear, first, that Gibraltar was a colonial Territory to which resolution 1514 (XV) was fully applicable; and secondly, that a certain territorial claim existed and that operative paragraph 6 of resolution 1514 (XV) should be taken into account. None of those decisions had called for the speedy recognition of the principle of self-determination in respect of the population of Gibraltar, despite the fact that that was one of the basic principles proclaimed in resolution 1514 (XV). The reason for that was clear: the General Assembly was aware that self-determination could, in the case of Gibraltar, lead to the disruption of national unity and territorial integrity. Furthermore, the inhabitants were not like other peoples subject to the colonial yoke, to whom the United Nations gave the choice of freedom. The General Assembly had therefore called for negotiations between the two parties to the dispute, taking into account the interests of the people, rather than for a referendum to determine their wishes.

74. Regrettably, however, negotiations had not taken place and the United Kingdom had decided unilaterally to hold a referendum which had so many limitations that its validity could hardly be upheld, even if the United Nations had called for it.

The United Kingdom had arbitrarily decided who should vote, since the voting register was subject to the will of the Government. For various obscure reasons, some of those who had been born and now resided in the Territory, as well as the Spanish workers who had to leave the Territory before nightfall, would not be allowed to vote. Moreover, of the alternatives offered in the referendum, one was based on preliminary considerations which should have preceded negotiations, and the other amounted to a maintenance of the status quo. The referendum was therefore contrary to the letter and spirit of the General Assembly resolutions and the 1964 consensus of the Special Committee. It was important that negotiations should be held between the Governments of the United Kingdom and Spain with a view to the full implementation of resolution 1514 (XV), taking into account the interests of the people of the Territory, and his delegation would support any proposal reaffirming that opinion.

75. The representative of Syria said that resolution 2231 (XXI) reaffirmed that Gibraltar was a colonial Territory, to which resolution 1514 (XV) was fully applicable and that the process of decolonization should be expedited. The liquidation of the colonial presence in Gibraltar was essential in the interests of international peace and security, since it was used by the colonial Power mainly as a military base and posed a permanent threat to the independence and integrity of the developing nations of Asia and Africa as well as to their sovereignty over their natural resources. Secondly, since the Territory belonged historically and geographically to a sovereign State from which it had been severed by conquest, the administering Power and the original owner of the Territory had been called upon to conduct negotiations concerning the process of decolonization, taking into account the interests of the people of the Territory.

76. The United Kingdom had clearly been determined in advance to break off the negotiations and to ignore the provisions of resolution 2231 (XXI), yet it had claimed that its attitude had been precipitated by Spain's harassment of its Air Force. No United Nations resolution, nor any rule of international law compelled Spain to give up its sovereignty over its air space, especially when foreign air activities were admitted to be of a military nature. The fact that Spain had granted permission for such activities in the past did not mean that it had permanently abandoned its sovereign rights. The United Kingdom's argument was

irrelevant and its intimidation of the Spanish population in the vicinity of the frontier, together with its attempts to link Spain's protests to the question of decolonization were no indication of its good faith.

77. The administering Power had then unilaterally announced the holding of a referendum, thus arrogating to itself a power not conferred upon it by the United Nations resolutions concerning Gibraltar, which had called for negotiations rather than a referendum. The people were to be offered a choice of allowing the United Kingdom to retain its present responsibilities, which appeared to indicate a new phase of colonization rather than decolonization, or of passing under Spanish sovereignty. The Territory was, however, fundamentally Spanish and Spanish sovereignty had only been suspended as a result of force; force could not eliminate sovereignty, if international relations were to be guided by the United Nations Charter.

78. The United Kingdom claimed that it cared for the interests of the population, yet it wished to perpetuate its conquest and retain Gibraltar as a military base for the purposes of colonial expansionism and imperialist domination, using the innocent inhabitants as manpower. The Government of Spain, on the other hand, pledged to respect the individual rights of the inhabitants, their freedom of religion, the freedom of their Press, their security of domicile and of employment, as well as to preserve their municipal institutions and to allow them to retain their British nationality.

79. The representative of the United Kingdom had claimed at the previous meeting that the Special Committee had been aware of the steps it had taken and had referred to the communication from his delegation to the Secretary-General reproduced in paragraphs 15 and 16 of the Secretary-General's report (see annex I). That was not, however, the proper way to consult the Special Committee. The referendum was, in fact, an ultimatum. In essence, the United Kingdom had announced that it had decided to hold a referendum, the results of which were a foregone conclusion because of the way in which it had been organized, and that its decision admitted of no appeal.

80. Perhaps the administering Power could explain why the electoral register of Gibraltar had been closed to all those born after 30 June 1925 and why the Governor-in-Council had been empowered to delete from the register the names of those who had proved by act or speech to be disloyal to the Queen, so that out

of a total population of 25,000 or more only some 13,000 would be consulted as to the future of the Territory. He wondered whether the Gibraltarians of Pakistani or Indian origin would be eligible to vote, and why the 5,000 Spanish workers who contributed daily to the economy of Gibraltar were denied any right of residence, and consequently of the vote. The representative of the United Kingdom accused Spain of prejudging the referendum, yet he himself had done that when he had asserted that the Gibraltarians did not wish to come under a Spanish régime. If he was sure of that, then the referendum was merely a formula to legalize the unlawful occupation.

81. The United Kingdom representative had stated that his Government was ready to negotiate with Spain after the results of the referendum were known. Since, however, the referendum involved a decision on sovereignty, which was Spain's major interest, there would be nothing left to be negotiated if the results of the referendum were favourable to the United Kingdom, as the United Kingdom representative expected. In the interests of the inhabitants of the Territory, and in the interests of Spain, justice should be done.

82. The representative of the United Kingdom, speaking in exercise of the right of reply, said that it had emerged very clearly from the statements of the Spanish and other representatives that Spain's entire case rested on the central assumption that Spain had a right to Gibraltar. It was argued that, because of that right, the present status of the Territory was an infringement of Spanish territorial integrity and that, as a result, Article 2 (4) of the Charter and operative paragraph 6 of resolution 1514 (XV) were applicable. The great flaw in that argument was that Spain had no right to Gibraltar at all. Only if the United Kingdom were to relinquish sovereignty over Gibraltar to a third party would Spain have any such right. The relinquishment of sovereignty could not arise from the actual holding of a referendum.

83. Spain had no right to Gibraltar - no legal right, no political right, and no right in cultural, economic, social or human terms. The Territory did not belong to Spain and had not belonged to Spain for more than two and a half centuries. Gibraltar was British; before that it had been Spanish and before that Arab territory - as its very name showed. It had been British for longer than it had been Spanish and the United Kingdom's possession of it was not an infringement

of Spanish territorial integrity; still less was it a threat to that country's political independence. Spain's whole case rested on a single spurious claim and if it was contended that the situation in Gibraltar conflicted with Spanish territorial integrity it was for Spain to explain its refusal to submit the question to the International Court of Justice.

84. A whole edifice of argument had been constructed on the claim that operative paragraph 6 of resolution 1514 (XV) was enshrined in resolution 2231 (XXI). It was true that resolution 1514 (XV) was recalled in that resolution, but there was no reference to operative paragraph 6 of it. The consensus of the Special Committee adopted on 16 October 1964 affirmed that the provisions of the Declaration were fully applicable to the Territory. Yet, there was no prejudgement and no singling-out of one facet of the resolution to the total exclusion of others. Indeed, scrupulous care had been taken in framing the resolutions and the 1964 consensus to avoid making prior judgements. If any such judgement had been made, it had been to acknowledge Gibraltar's status as a Non-Self-Governing Territory, which was clearly incompatible with Spain's assertion that Gibraltar was part of Spain's natural territory, illegally occupied by the United Kingdom.

85. There was no mystery in the fact that the Gibraltarian Status Ordinance set July 1925 as the deadline for birth in the colony as a qualification for Gibraltarian status. There was no justification for the unworthy insinuation which the representative of Spain had sought to make in that connexion. The Ordinance had been passed only five years earlier and had been intended to revise an Order in Council, much of which had been in force since 1885. When the Ordinance had been enacted, the opportunity had been taken to advance the qualifying date of Gibraltarian status by a convenient period, namely a quarter of a century, from 1900 to 1925. The intended effect had simply been to extend Gibraltarian status to various people, irrespective of their origin, who had settled in Gibraltar and made it their home since 1900 and before 1925.

86. As to the Spanish representative's suggestion that there was something sinister in the Governor's powers under the Ordinance, those powers were precisely parallel to those in the United Kingdom whereby the Government was enabled to confer British nationality by means of naturalization and even, in certain circumstances, to revoke such naturalization. There was nothing unusual about

/...

such a provision. In actual fact, that power under the Gibraltarian Status Ordinance had never so far been used.

87. As to the suggestion that, because the 1967 Order in Council providing for the referendum contained a general reference to the 1964 Gibraltar Constitution, the referendum was in some way part of that Constitution, it was readily apparent that the connexion was solely on a plane of technical and verbal interpretation. The referendum was quite distinct in its provisions from the Constitution.

88. It was very clear from Chapter XI of the Charter and from the relevant United Nations resolutions that it was the interests of the inhabitants of the Non-Self-Governing Territory of Gibraltar which mattered. The Special Committee's consensus on 16 October 1964 referred expressly to "the interests of the population of the Territory". Spanish citizens who worked in Gibraltar by day but slept in Spain at night were not inhabitants of Gibraltar and not, by any normal definition, part of its population. To allow them to vote in the referendum would accord neither with the Charter nor with the relevant United Nations resolutions. The existing regulations provided that persons of both United Kingdom and Spanish origin would be excluded from the referendum. The omission of the United Kingdom personnel in Gibraltar, civilian and military, helped to account for the gap, to which the Syrian representative had drawn attention, between the figure of 25,000 and the figure of some 13,000 who were expected actually to be eligible to vote. Moreover, the figure of 25,000 included minors and children. He wondered whether those arguing that Spanish daily workers in Gibraltar should be allowed to vote would also advocate that United Kingdom residents there should be allowed to vote in a referendum to decide how the inhabitants of the Territory viewed their interests. Obviously, the proper and right course was to confine the vote to the true inhabitants of Gibraltar, which was precisely what had been done.

89. The allegation that the referendum conflicted with the United Nations resolutions was also unjustified. The mere fact that the resolutions did not specifically require a referendum did not mean that the referendum was contrary to them. Indeed, resolution 2231 (XXI) expressly required Spain and the United Kingdom to take account of the interests of the Gibraltarians. The sole purpose of the referendum was to give such people an opportunity to express their views. His Government had sought to conduct the referendum in co-operation with Spain,

/...

but the latter had refused. There would be impartial Commonwealth observers and the United Kingdom would welcome a United Nations observer. The referendum was nothing more or less than a consultation of the Gibraltarian people, by democratic means, about their own view of their own interests - a matter on which clear and definite evidence was obviously needed if the requirements of the General Assembly resolutions in 1966 were to be met. The United Kingdom, as the acknowledged administering Power of an acknowledged colonial Territory, was holding a formal and democratic consultation of the peoples of that Territory, precisely in the manner so often advocated in the Special Committee.

90. The representative of Spain observed that the fact that Gibraltar still bore the imprint of its Arab past in its name was no justification for the United Kingdom's assertion that it did not belong to Spain. The names of many Spanish cities were the precious inheritance of a glorious Arab past whose treasures Spain preserved with pride. The United Kingdom might equally well suggest the return of Guadalajara or any other Spanish city to the Arabs. The United Kingdom's contention that Gibraltar had belonged to Spain for only two and a half centuries was surprising. The Hispanic nation had begun to take shape at the time of the Greek, Phoenician, Carthaginian and Roman settlements. It had grown accustomed to occupations and when the Arabs had arrived they had been welcomed. They had merged with the Spaniards to create a race which, to the benefit of mankind and history, had settled in Spain and spread to the Americas.

91. The shameful and deplorable history of Gibraltar showed how, in 1704, the United Kingdom had treacherously taken advantage of Spain's weakness to impose the Treaty of Utrecht. Nevertheless, the concessions under that Treaty had been limited by a series of conditions: there was to be no open communication by land and there would be no extension across the Territory; all that had been ceded was a military fortress. No jurisdiction had been involved. Yet, the first act of the United Kingdom on occupying the Territory had been to seize the Rock and then to expel the Spanish inhabitants. Although another population had started to take shape on the Rock, it had never been sufficient to satisfy the needs of the United Kingdom's military base. From the seventeenth century to the present day, the Spanish population, which still had to go to the Rock to earn its daily bread and to maintain the ties with the town which his country still considered Spanish, had

not been allowed to sleep in the city and re-establish its roots on the Rock. In 1830, the United Kingdom had declared Gibraltar a Crown Colony and a gradual invasion of the surrounding area had taken place until, in 1909, the first wall of shame in Europe had been built. A municipal council had been established in 1923 and in 1946, before Spain had joined the United Nations, the United Kingdom had started to submit information on the Territory, possibly as security for its own rights. If those rights had been truly legal, the United Kingdom would have overlooked Article 73 of the Charter, omitting Gibraltar from the list of Non-Self-Governing Territories in its possession. When Spain had been admitted to the United Nations on 14 December 1955, it had expressed reservations regarding the submission of that information. It should not be forgotten that Gibraltar was not a Territory but a Rock, the mountain of Djebel Tarik, the Rock of Gibraltar.

92. The United Kingdom representative had tried to show that operative paragraph 6 of resolution 1514 (XV) contained the principle of the maintenance of territorial integrity. That principle had been clearly defined to mean that no country whatever could be dismembered; it did not apply exclusively to countries which were still colonial possessions. In 1963, when the Special Committee had been debating whether Gibraltar should be included in its agenda, the United Kingdom had immediately requested that the Committee declare itself incompetent to deal with the question on the grounds that it was a matter in which the United Kingdom was sovereign. The United Kingdom had become a victim of its own actions. It had claimed that, by virtue of the Treaty of Utrecht, it was sovereign over the Territory whereas, in 1830 it had declared it a Crown Colony and in 1946 had stated that it was a Non-Self-Governing Territory. The aim of that skilful manoeuvring was to ensure a solution favourable to the United Kingdom's own interests.

93. When, in 1963, the Special Committee, through lack of time, referred the question to the General Assembly, the United Kingdom had informed the petitioners from Gibraltar who were then present that the Special Committee had decided not to take a decision on the matter. That had been a further manoeuvre by the United Kingdom to ensure that the people of Gibraltar would not be surprised to learn that the question was to be taken up again in 1964. The Committee had adopted a consensus in 1964 to the effect that a dispute existed, that Gibraltar was a colonial Territory and that it should be decolonized through negotiations,

/...

with due regard for the interests of its population. In April 1964, before the consensus had been adopted, the United Kingdom had announced its intention of naming a Chief Minister, who was also the President of the Assembly and the Mayor. The Committee, however, had reached its consensus despite the facts placed before it by the United Kingdom. The adoption of General Assembly resolution 2070 (XX) in 1965 had been followed in 1966 by the adoption of resolution 2231 (XXI). It was curious that the United Kingdom should now contend that it had an absolute right over Gibraltar, that Gibraltar was not part of Spain, and that Spain had no rights whatsoever in that connexion. It was the United Kingdom which decided who should have the right to vote and argued that the provisions of the law in Gibraltar were identical with those in the United Kingdom. But whereas the United Kingdom was not a colony, Gibraltar was and the circumstances were therefore not the same. Chapter 218 of the Gibraltarian Status Ordinance stated that the Governor in Council might, in his absolute discretion, order that the Registrar should delete from the Register the name of any person who had been registered by virtue of an order made by the Governor in Council if the Governor in Council was satisfied that such a person had, within ten years of being so registered, showed himself by act or speech to be disloyal or disaffected towards Her Majesty. That showed how the Governor of Gibraltar, subject absolutely to his own discretion, could do whatever he wished with the Register.

94. The representative of the Union of Soviet Socialist Republics said he would like to know whether, as reports in the Press indicated, the Government of Spain would be prepared to settle the question of Gibraltar on the following basis: the United Kingdom would recognize Spanish sovereignty over Gibraltar and Spain would agree to the presence of a British base on Gibraltar.

95. The representative of the United Kingdom said that the logical consequence of the Spanish representative's assertion that Gibraltar was not a Territory but a Rock was that General Assembly resolution 1514 (XV) could not be applicable to it - something which revealed the inherent contradiction in the Spanish position.

96. The proposals to which the Soviet Union representative had referred had been made on 18 May 1966 by the Spanish Government, and constituted the first of the two alternatives to be put before the inhabitants of Gibraltar in the referendum.

97. The representative of Spain recalled that Spain had become a Member of the United Nations in 1955, some ten years after the United Kingdom had declared Gibraltar to be a Non-Self-Governing Territory, and had only been able to express its reservations since that time. When, in 1963, the Special Committee had taken up the question of Gibraltar and the United Kingdom representative had invoked the Treaty of Utrecht, the Spanish delegation had merely observed that it wished the reversion clause in that Treaty to be borne in mind, and careful account to be taken of operative paragraph 6 of General Assembly resolution 1514 (XV).

98. He reminded the Soviet Union representative that a copy of the Spanish Red Book had been transmitted to the Soviet Union delegation, including the proposals made by Spain on 18 May 1966.

99. There were two elements at stake in Gibraltar: first, the interest of the inhabitants themselves, and secondly, the military interests of the United Kingdom. His delegation had expressed its surprise in the First Committee of the General Assembly at its twenty-first session that the Soviet Union proposal relating to the elimination of foreign military bases had not referred to bases in Europe. Spain had then raised the specific case of Gibraltar. It had even stated that it was prepared to have the base in Gibraltar dismantled; since, however, the offer his Government had made to the United Kingdom had been turned down, it was ready to abide by any decision the United Nations might take.

100. The representative of the Union of Soviet Socialist Republics observed that the Spanish Red Book contained information only up to 1965 and that the proposals he had referred to had been made in 1966.

101. The representative of Spain said that the proposals made by the Spanish Government on 18 May 1966 had been described in the 1671st meeting of the Fourth Committee of the General Assembly at its twenty-first session (A/C.4/SR.1671).

102. The representative of the Syrian Arab Republic said he was somewhat bewildered by the statement of the United Kingdom representative to the effect that Gibraltar was British and could be nothing else, and that Spain had no right whatsoever to the Territory. If that was so, logically there would be no need for a referendum nor for Spain to be a party to any negotiations. Furthermore, the United Kingdom had stated that it wished to assess where the interests of the population lay; however, United Nations resolutions called not for an assessment of those interests

but for their protection; he would like to know whether the United Kingdom, like the Government of Spain, had pledged to respect those interests.

103. The representative of the United Kingdom said that, while his delegation considered that Spain had no rights with regard to Gibraltar, that did not exclude recognition of the fact that there were legitimate Spanish interests in Gibraltar and that within the framework of United Nations resolutions a dispute existed and negotiations were necessary.

IV. ACTION TAKEN BY THE SPECIAL COMMITTEE

104. At its 546th meeting, the Special Committee had before it a draft resolution sponsored by the United Kingdom (A/AC.109/L.423). This draft resolution, after recalling the request contained in General Assembly resolution 2231 (XXI) to take into account the interests of the people of the Territory and noting the declared intention of the administering Power to consult the people of the Territory about their views of where their interests lay by means of a referendum to be held on 10 September 1967 as well as noting the statement by the administering Power that in accordance with the requirements of General Assembly resolution 2231 (XXI) it intended to make a full report to the Special Committee following the referendum, would have the Special Committee decide to resume discussion of the question of Gibraltar as soon as the full report of the administering Power was received.

105. At its 546th meeting, the Special Committee also had before it a draft resolution co-sponsored by Chile, Iraq and Uruguay (A/AC.109/L.424) which inter alia would have the Special Committee declare that the holding by the administering Power of the envisaged referendum would contradict the provisions of General Assembly resolution 2231 (XXI) and would constitute an attempt to ignore the principle of national unity and territorial integrity embodied in paragraph 6 and the final part of paragraph 7 of resolution 1514 (XV). At the 548th meeting, a revised text of the draft resolution was submitted to the Special Committee, finally co-sponsored by Chile, Iraq, Syria and Uruguay (A/AC.109/L.424/Rev.1 and Add.1), the main change being that the second part of the above-mentioned operative paragraph concerning national unity and territorial integrity would appear separately in revised form as a preambular paragraph.

106. The representative of Iraq, introducing the original resolution co-sponsored by Chile, Iraq and Uruguay (A/AC.109/L.424), said it was not too late for the administering Power to come to grips with the realities of the situation and to realize that no practical benefits were to be expected from the execution of the unilaterally arranged referendum in Gibraltar, for it would be contrary to the very spirit of the United Nations Charter and the relevant United Nations resolutions. The three-Power draft resolution contained all the necessary elements for a peaceful and legally sound solution to the problem, through the process of negotiations and discussions that was so strongly supported by an impressive majority of the General Assembly a few months before.

107. The representative of Uruguay said that the critical issue before the Special Committee was the referendum, which had been decided upon by the United Kingdom unilaterally and which represented a direct departure from the system of bilateral negotiations called for in General Assembly resolution 2231 (XXI).

108. Turning firstly to the implications of the referendum with respect to the Utrecht Treaty, he recalled Professor Oppenheim's dictum that conquest consisted in taking possession of enemy territory by military force in time of war and was only a method of acquiring territory, when the conqueror, after having firmly consolidated the conquest, formally annexed the territory. On the basis of that statement, the 1704 occupation did not give the United Kingdom any rights over Gibraltar because: (a) Spain was not then in a state of war with Great Britain and Gibraltar was not an enemy territory; (b) the occupation of Gibraltar, far from having the character of a military conquest in time of war, was limited to a mere

foreign violation of Spanish sovereignty; (c) there had been no intention of conquest on the part of Britain; (d) Admiral Rooke had acted on his own and taken possession of Gibraltar on behalf of Queen Anne; (e) Spain had reacted immediately by claiming its sovereignty over Gibraltar; (f) after having sought to recapture Gibraltar by force in 1704, 1727, 1779 and 1783, Spain had continued to maintain its claim, using the peaceful means of diplomacy and finally resorting to the United Nations; (g) Britain had never executed a formal act of annexation.

109. According to the British Encyclopedia of Adam and Charles Black, the conquerors of Gibraltar had defended the interests of Charles, Archduke of Austria, later Charles III, but even though on 24 July 1704 his sovereignty had been proclaimed over the Rock, Admiral Rooke, under his own responsibility, had given the order to raise the British flag. In other words, Great Britain, which was not at war with Spain and which intervened only to defend the rights of the pretender to the Spanish throne, had become the owner of the Rock which had been conquered on behalf of Archduke Charles.

110. Such was the title which appeared nine years later in the Treaty of Utrecht. Spain, vanquished and powerless, felt obliged to sign an instrument whereby it yielded, to the Crown of Great Britain, the city, the castle, the port and the fortress of Gibraltar. Despite that territorial segregation, conditions and limitations were established in the Treaty of Utrecht which seriously undermined the present claims of the United Kingdom. For example, in article X of the Treaty, the King of Spain maintained that the properties had been yielded to Great Britain without any territorial jurisdiction and without any open communication by land with the surrounding country. That article also stated that, if at any time the Crown of Great Britain deemed it appropriate to dispose of the property, the Crown of Spain would have the first choice to redeem the Rock of Gibraltar. Therefore, assuming that the Treaty of Utrecht could be applicable in the light of modern international law, the United Kingdom could not unilaterally change the status of Gibraltar. By doing so, it would be violating article X of the Treaty.

111. However, the Treaty of Utrecht was obsolete and completely at variance with modern international law. It dated back to the time when legal instruments were drafted in an atmosphere of prejudice and rancour and when armed battles were used as legitimate instruments in relations among States. As Professor Oppenheim had stated, the international situation had undergone major change because of the Covenant of the League of Nations and the United Nations Charter. To the extent that those instruments proscribed war, Professor Oppenheim had continued, they also invalidated the conquest of a State which, running counter to its obligations, had recourse to war. Professor Oppenheim's view was confirmed by another Cambridge professor, Sir Hersch Lauterpacht, a member of the International Court of Justice, who had stated that, since in contemporary international law war was forbidden, the results of an illegal action, such as a treaty imposed as a result of the violation of international law, could not be valid.

112. It was therefore obvious that title to Gibraltar in favour of the territorial dismemberment of Spain could not be invoked on the basis of the violent conquest of 1704 nor on the basis of a treaty that was intended to render that conquest valid in 1713. There would still be an objection to the referendum in any case because article X of the Utrecht Treaty gave a preferential option to Spain to recover the territory. Accordingly, any referendum organized by the British who inhabited the territory was devoid of legal or practical value.

113. Turning next to the implications of the referendum with respect to General Assembly resolution 1514 (XV), he observed that the latter laid down two criteria, based on different principles but having the same purpose of promoting and facilitating the freedom and independence of colonial countries and peoples. Although the principle of self-determination was the primary basis for the liberation of peoples, there were certain peculiar colonial situations, such as those of Gibraltar and the Malvinas Islands, to which the criterion of the national unity and the territorial integrity of a State must be applied. In some such cases, a referendum might serve to perpetuate, instead of abolishing, the rule of colonial Powers over territory belonging to other countries. Uruguay, whose devotion to law and justice was unquestionable, had taken that position at the time of the adoption of General Assembly resolution 1514 (XV) and had

therefore supported paragraph 6 of the Declaration. Even if the meaning of that paragraph had not been clear - which was not the case - the records of past debates would show that the intention of its sponsors and supporters had been to avoid the automatic and indiscriminate application of the principle to self-determination, which in exceptional cases could violate the principle of the territorial integrity of States recognized in Article 2 (4) of the Charter. The importance of paragraph 6 of the Declaration had been categorically reiterated by the General Assembly, one year later, in its resolution 1654 (XVI), in which the Assembly had expressed deep concern that acts aimed at the partial or total disruption of national unity and territorial integrity were still being carried out in certain countries in the process of decolonization. The Special Committee itself had been set up under the same resolution, one of the main reasons for its establishment being the need to defend national unity and territorial integrity in the course of decolonization.

114. Much more could be said concerning the implications of the referendum with respect to the provisions of the Charter and the well-established principles of contemporary international law. The vital point, however, was that the proposed referendum would constitute a violation of the principle of non-intervention in a domestic matter affecting the jurisdiction of Spain. Since the question of Gibraltar had been submitted to bilateral negotiations under the auspices of the United Nations, any unilateral act by either party which could affect the political future of the territory in dispute was a departure from the agreed procedure and an unlawful intervention in the domestic affairs of the other country. Paragraph 7 of the Declaration set out in General Assembly resolution 1514 (XV) made that point clear and left no room for ambiguous interpretation. Consequently, the referendum could not be regarded as a valid instrument of decolonization.

115. Turning lastly to the implications of the referendum with respect to General Assembly resolution 2231 (XXI), he noted that a reading of that resolution could lead to only one conclusion, namely, that the General Assembly wished Gibraltar to be decolonized through bilateral negotiations between Spain and the United Kingdom, in accordance with General Assembly resolution 1514 (XV) and taking into account the interests of the people of the Territory. It was significant that the resolution in question, like resolution 2070 (XX), of which it was basically

a reiteration, made no specific mention of the principle of self-determination and referred to the interests, rather than the will or the wishes, of the people, thus departing from the terminology normally used - the obvious purpose being to place the problem within the context of paragraph 6 of the Declaration. Thus, in the case of Gibraltar - paradoxical as it might appear - decolonization was intended to benefit, not the British inhabitants of the Rock, but the territory itself or, in other words, the parcel of land of which Spain had been deprived in violation of its national unity and territorial integrity. The referendum was therefore contrary to General Assembly resolution 2231 (XXI), which provided the only practical means of a settlement through a bilateral understanding that would safeguard the interests of the people, without, however, confusing those interests with the political motive of perpetuating colonialism. That resolution had the unanimous support of the peoples of Latin America, as was evidenced by the Declaration adopted at the Second Plenary Session of the Latin American Parliament in May 1967.

116. His delegation had often expressed its appreciation of the United Kingdom's contribution to decolonization, and it earnestly hoped to hear at the twenty-second session of the General Assembly that the last vestige of colonialism in Europe had been eliminated by agreement between the United Kingdom and Spain. Gibraltar might be insignificant in itself, but it constituted the southernmost geographical boundary of Spain, and the presence of an alien Power on the Rock was a scar on Spain's territorial integrity and an insult to its sovereign dignity as a State. The Treaty of Utrecht was no longer valid under contemporary international law, and his delegation was confident that the negotiations provided for in General Assembly resolution 2231 (XXI) would lead to the return of Gibraltar to Spain. Gibraltar could not escape decolonization, and the two Governments would surely be able to agree on provisions to protect all the interests of the inhabitants.

117. His delegation would not vote for any draft resolution condemning or censuring the United Kingdom, since to do so would not be constructive and would jeopardize the continuation of the bilateral negotiations.

118. The representative of the United Republic of Tanzania said that the position with regard to the implementation of General Assembly resolution 2231 (XXI) was still unclear. The statement made by the administering Power at the beginning of the discussion of Gibraltar (see paras. 20-37 above) had not provided any information which would help the Committee to formulate constructive recommendations.

119. In approaching the colonial question of Gibraltar, his delegation was guided mainly by General Assembly resolution 1514 (XV), together with other relevant resolutions of the Assembly. Particular importance should be given to the interests of the people, including their long-term interests. The Committee must ensure that the colonial Power's activities did not jeopardize the future of the Territory and its residents. Such considerations had caused his delegation to support General Assembly resolution 2231 (XXI), which, in operative paragraph 2, called upon the two parties to continue their negotiations, taking into account the interests of the people, and asked the administering Power to expedite the decolonization of Gibraltar in consultation with the Government of Spain. The terms of that paragraph had clearly not been complied with. It was distressing that recriminations should have been given prominence in the debate, and that the United Kingdom representative had placed so much stress on the alleged establishment of a prohibited air zone in the vicinity of Gibraltar. The question of Spanish air space was solely within the jurisdiction of the Spanish Government, and such matters were in any case not within the purview of the Committee, which was concerned with the decolonization of Gibraltar.

120. Resolution 2231 (XXI) called for consultation between the Governments of Spain and the United Kingdom, and the organization by the colonial Power of a referendum in Gibraltar would not further the implementation of that resolution. His delegation had always supported the principle of the consultation of colonial peoples; however, when a referendum was held, it was assumed that the object was to determine the interests of the people - both their immediate and their long-

term interests. It was clear that the holding of the referendum further jeopardized the possibilities of consultations between the United Kingdom and Spain which might lead to the decolonization of Gibraltar.

121. Secondly, all the indigenous inhabitants of the Territory should participate in any referendum. In the present case, as a result of the activities of the colonial Power, the indigenous population had been largely excluded. In any case, since the colonial Power had acted unilaterally, it was impossible to determine who would participate in the referendum and how large a part of the population would be excluded. The colonial Power had retained the right to exclude any individual who, in the view of the colonial authorities, might not support their interests.

122. Thirdly, the aim of a referendum must be decolonization. It was distressing to note that part of the referendum under discussion was aimed at perpetuating the colonial status of Gibraltar.

123. He had dwelt on the question of the referendum because it was essential for the Committee to ensure that the referendum procedure, which was one of the means by which decolonization could be effected, was not abused. The United Kingdom representative had said that the type of colonization best suited to Gibraltar could not be prejudged. That might be true, but the General Assembly had called upon the colonial Power to enter into consultations with the Spanish Government to ensure not only decolonization but also the type of decolonization and the process followed. The administering Power, utilizing a means of decolonization, had in fact jeopardized the process of the decolonization of Gibraltar. Thus the referendum would defeat the purposes of General Assembly resolution 2231 (XXI). He therefore agreed with those who called for the resumption of negotiations between the United Kingdom and Spain to ensure the full implementation of the General Assembly resolutions, taking into account the interests of the people as a whole.

124. Another aspect of the problem was the fact that Gibraltar was a military stronghold of the United Kingdom. His delegation had always opposed the establishment of military bases in colonial territories. The question arose whether a free referendum could be held under such conditions; if the United Kingdom had been interested in the decolonization of Gibraltar, a first step would surely be the removal of the military base. In view of some of the powers that had been vested in the Governor, one could not but be apprehensive about the role that the presence of the base would play in the referendum.

125. The United Kingdom representative had tried to give the impression that the United Kingdom was concerned with the interests of the people. In fact, the administering Power was always interested in perpetuating its own interests. Thus the United Kingdom Government, because it suited its interests, had contended for many years that Southern Rhodesia enjoyed internal self-government when in fact it was only the small white minority which exercised power. The Committee should not be deceived by claims that the United Kingdom was seeking to ascertain the interests of the population. In the case of the Caribbean islands, the wishes of the people had not been ascertained before the proposed new arrangements came into effect, and those arrangements had now proved to be a failure. The appropriate lessons should be learnt from the troubles in the Caribbean area and in Southern Rhodesia. He urged the United Kingdom to consider the wisdom of General Assembly resolution 2231 (XXI) and realize that the proposed referendum would not lead to the complete solution of the problem.

126. The administering Power had invited the United Nations to send an observer to Gibraltar. That would be inconsistent with the expressed views of the Committee, since it had insisted that the United Nations should be involved in a positive way with regard to the remaining colonies and not just as a passive observer of activities with which it disagreed. It would therefore have been wrong for the Secretary-General to consent to the United Kingdom's request. In the case of other Territories, the administering Power had refused to allow visiting missions. The United Kingdom Government could not use the United Nations Secretariat to obtain approval for its actions from the United Nations.

127. It would undoubtedly be in the interests of the Committee if the terms of General Assembly resolution 2231 (XXI) were to be faithfully implemented. He appealed to the United Kingdom to co-operate with the United Nations in deed and not merely in words.

128. The representative of Australia said that his delegation had been disappointed that the bilateral negotiations which were to have continued following the adoption of General Assembly resolution 2231 (XXI) had come to nothing. Having listened to the statements of the representatives of the United Kingdom and Spain, he understood the Spanish case to be that Spain was the legitimate sovereign Power with respect to Gibraltar and responsible for its inhabitants. It was his understanding that, if Spain were to enjoy the full exercise of that sovereignty, it would respect the individual rights of the inhabitants of Gibraltar, their freedom of religion, the freedom of their Press, and their security of domicile and employment. The essence of the Spanish case was the assertion of sovereignty. The United Kingdom, for its part, maintained that it was the sovereign Power, and that it had primary responsibility for the future of the people of Gibraltar, although Spain had an interest in the situation by virtue of the Treaty of Utrecht.

129. The Australian view was that the United Kingdom exercised sovereignty over Gibraltar both de jure and de facto. Should Spain obtain a ruling from the International Court of Justice to the effect that Spain was the sovereign Power, that would naturally affect Australia's position. It must be borne in mind that the United Kingdom was prepared to submit the question of sovereignty to the International Court and that the Spanish Government had declined to accept that procedure.

130. Other Governments represented in the Committee took the view that Spain was the sovereign Power. That naturally led them to different conclusions from those of his delegation.

131. Australia did not consider that the Committee was competent to take decisions on questions of sovereignty, and would be unwise to attempt to assume such competence. The United Nations body competent to consider such disputes was the International Court.

132. There had been a tendency in the Committee to misinterpret General Assembly resolution 2231 (XXI). In the discussions in the Fourth Committee at the General Assembly's twenty-first session, a deadlock had been avoided when Sierra Leone had submitted an amendment introducing the words "taking into account the interests of the people of the territory" in the draft resolution. That amendment had rendered the resolution acceptable to the Australian and other delegations.

133. Furthermore, the representative of Ceylon in the Fourth Committee had expressed some surprise that the sponsors of the draft resolution had forgotten to refer to the interests of the people and had been obliged to suspend the meeting to decide whether there should be such a reference. That representative had also reminded the Committee that every people had the right to self-determination and the right to decide their own future. Those views were still as relevant as they had been the previous November. The Fourth Committee's debate had demonstrated the importance which the General Assembly as a whole attached to the right of Gibraltarians to decide their own future. Resolution 2231 (XXI), and Spain's proposal that it should negotiate a statute with the United Kingdom, had obliged the latter to consult the people of Gibraltar regarding their future. The United Kingdom's decision to hold a referendum was entirely consistent with the General Assembly resolution and a transfer of sovereignty to Spain without the prior agreement of the people would have been a repudiation of it.

134. The representative of Spain had suggested that the people of Gibraltar were a "prefabricated population", but, whatever their origins, they did exist as a separate society and the General Assembly had acknowledged that by insisting that their interests should be properly safeguarded in the negotiations between the United Kingdom and Spain. The Gibraltarians were neither Spaniards nor Englishmen but a people with its own customs, institutions and history. It existed as truly and fully as the population of Singapore, which had developed only after 1819. The Gibraltarians were as entitled to the right of self-determination as other similar groups elsewhere and that had been the view of the General Assembly in adopting resolution 2231 (XXI).

135. An important Spanish argument had been that the 5,000 Spanish workers formerly employed in Gibraltar had been denied voting rights in that colony. If that argument were accepted it could be taken to apply to other migratory workers employed temporarily in countries other than their own. As to the Spanish suggestion that the descendants of the residents of San Roque, expelled from Gibraltar in 1704, should be entitled to vote in the referendum, it was extremely difficult to understand how it could be implemented or justified.

136. Much had been said about Gibraltar's use as a military base, and some rather unfounded allegations had been made, but Gibraltar's contribution to the successful prosecution of the Second World War was noteworthy in that connexion. The allied Powers, later the United Nations, had been very thankful to have Gibraltar as a base for the maintenance of the free system of government which had produced the United Nations.

137. The representative of Spain, and those supporting his views, had claimed that the United Kingdom's retention of Gibraltar was a partial or total disruption of Spanish national unity and territorial integrity and, as such, incompatible with the Charter. Yet, operative paragraph 6 of resolution 1514 (XV) had been intended to apply, not to historical territorial claims between sovereign Member States but to the disruption of the national unity or territorial integrity of Non-Self-Governing Territories. If the Spanish interpretation of that operative paragraph were accepted, it would follow that every historic claim of one sovereign State against another would be a matter to be discussed by the Committee. It would mean that nearly every European country could lay claim to some part of another European country's territory on historic grounds. The dangers of such a doctrine were obvious.

138. Operative paragraph 2 of resolution 1514 (XV), concerning the right of all peoples to self-determination, was more directly related to the question before the Committee. By holding a referendum, the United Kingdom would be allowing the Gibraltarians to exercise that right. It had been argued that the absence of any specific reference to self-determination for the Gibraltarians in the relevant General Assembly resolutions implied that the Assembly had concurred with the Spanish contention that operative paragraph 6 of resolution 1514 (XV) was

applicable to the Gibraltar situation. The Assembly had, however, recognized that the United Kingdom was the colonial Power vis-à-vis the people of Gibraltar and not vis-à-vis the people of Spain. Moreover, as a colonial Power the United Kingdom had responsibilities under Chapter XI of the Charter towards the people of Gibraltar which, while they might not be specified in every resolution, were nevertheless continuing responsibilities.

139. His delegation had welcomed the United Kingdom's arrangements for the presence of impartial Commonwealth representatives during the referendum and hoped that the Secretary-General would comply with the request that a United Nations Observer should also be present.

140. His Government's view was that sovereignty over Gibraltar, both de facto and de jure, lay with the United Kingdom, which was therefore the colonial Power and responsible for the future of the people of the Territory. As the colonial Power, the United Kingdom was seeking to ascertain the wishes of the people by means of a referendum, while simultaneously seeking to ensure that its bilateral treaty obligations to Spain were respected. The United Kingdom's actions were quite consistent with the letter and spirit of resolutions 1514 (XV) and 2231 (XXI) and the referendum was a step forward in the process of decolonization. For those reasons, his delegation urged the Committee to await the results of the referendum before taking further action.

141. The representative of Tunisia said that the problem of Gibraltar, while undeniably colonial in nature, was exceptional in that two administering Powers were involved in the dispute. The United Kingdom had long recognized the Special Committee's competence to attempt to find an appropriate solution.

142. There were two essential provisions in operative paragraph 2 of resolution 2231 (XXI); first, the interests of the inhabitants of the Territory must be taken into account in the negotiations between the United Kingdom and Spain and, secondly, the United Kingdom must expedite the process of decolonization in consultation with the Government of Spain. The fact that Spain was named as the partner of the administering Power was of particular importance and went beyond the mere fact that Spain had a common frontier with the Territory. It was not for the Special Committee to prove that Gibraltar belonged to Spain; the statements

by the representative of Spain and the documents provided by that Government had given sufficient proof of that. The Committee was all too familiar with colonial claims to territories conquered by force and with the various political and legal arguments advanced in attempts to justify them.

143. While his delegation did not wish to level any accusations, the question arose as to why the negotiations indicated in resolution 2231 (XXI) had not been concluded. It was significant that Spain's adoption of a decree establishing a prohibited air zone in the immediate vicinity of Gibraltar was in absolute conformity with its right of sovereignty. His delegation could not consider that decree as having jeopardized the success of the negotiations which were to have begun on 18 April 1967. The International Civil Aviation Organization had taken note of the matter but had taken no measures which could be construed as censure of Spain. The decree had, however, led to the disruption of the negotiations between Spain and the United Kingdom and the latter had subsequently decided to hold a referendum in Gibraltar. That decision had particularly surprised his delegation since, when the United Nations had requested the United Kingdom to hold referendums on other occasions, it had refused to do so, alleging that the peoples of the Territories for which it was responsible had already determined their wishes through elected representatives. Furthermore, whereas the United Kingdom had requested the United Nations to send an observer to Gibraltar for the referendum, whenever the Special Committee had urgently requested the United Kingdom to allow visiting missions to go to Territories under its control, it had always met with a categorical refusal. His delegation did not believe that the referendum could provide a solution. It was apparently intended to enable United Kingdom citizens in Gibraltar to determine their future status and, consequently, could not be considered as fulfilling the requirements of resolution 1514 (XV). The referendum could in no way prejudice the final solution of the problem and the Committee could not take it upon itself to recognize it.

144. There were certain prerequisites for any solution to the problem of Gibraltar. First, such a solution must respect resolution 1514 (XV), particularly operative paragraph 6 of it; secondly, it must respect resolution 2231 (XXI) and especially the provision that Spain and the United Kingdom should continue their negotiations,

taking into account the interests of the inhabitants of the Territory. Spain's assurances that those interests would be safeguarded were satisfactory and the process of decolonization should not be further delayed. The existence of a colonial enclave in an independent country was anachronistic and even dangerous, particularly when it was used for military purposes.

145. The representative of Spain observed that, whereas the Australian representative had stated that the question of Gibraltar was a dispute over sovereignty, the United Kingdom itself had conceded that the Special Committee was competent to examine the problem - a colonial problem with Spain as the sole victim.

146. As to the question of the interests of the people of Gibraltar which had arisen during the Fourth Committee's debate the previous year, he himself had pointed out at the time that it had been Spain which had first undertaken to safeguard those interests. It was to those "interests" that resolution 2231 (XXI) had referred.

147. Although the Australian representative had raised the question of whether the Spanish population of Gibraltar should participate in the referendum, it appeared that he had not read the Spanish statement in that connexion with any care. As that statement pointed out, from the time when the Spanish population had moved to San Roque on its expulsion from Gibraltar and had later begun to work in Gibraltar, it had never been allowed to spend the night in the Territory. The Australian representative could readily imagine what would have happened had his own ancestors been forbidden to spend the night in Australia. The Spanish population lived outside Gibraltar and was forced to leave the city at night - a situation which had lasted for 260 years.

148. As to the references to the use of Gibraltar as a military base during the Second World War, the Australian representative must concede that nobody could know what would have happened had Spain decided to neutralize Gibraltar and prevent the establishment of a military base in the Territory. That base had been built, not in Gibraltar but on the isthmus which was under Spanish sovereignty. If the Australian representative was so anxious to defend the population of Gibraltar, his Government might well ask the United Kingdom to dismantle the military base there. It would then remain to be seen how the civilian workers at the military base could continue to exist.

149. The representative of the United Kingdom, introducing his delegation's draft resolution (A/AC.109/L.423), said that he had no wish to be provocative or dogmatic. He was seeking an agreed way forward. He understood the concern of the members of the Committee but wished to make it clear that he was not asking them to reach a conclusion nor even to approve the proposals explained by his delegation. His immediate objective was a simple and limited one - namely, that no decision should be taken until the voice of the people of Gibraltar had been heard. Indeed, it would be contrary to the most elementary principles of justice and to the fundamental principles of the Charter to deny the people concerned the right to speak in their own cause. He could not conceive that any United Nations body could take a decision that conflicted with that principle. The Special Committee, more than any other, had the duty to take account of the wishes of the peoples it was concerned with and not deliberately to refuse them an opportunity to be heard.

150. The issue was not a legal one and the United Kingdom Government had offered to submit any legal issues to judicial decision. There was no question of any action which would contravene the Treaty of Utrecht; nor was there any question of power politics or ideologies. He simply asked the Committee not to prejudge the question until the views of the people had been fairly given and heard.

151. He invited the Committee to reflect on the attitude adopted by the two Governments directly concerned. He felt that in the speeches made so far justice had not always been done to the policies pursued by the United Kingdom. There had been no welcome in the Committee for the United Kingdom's willingness to submit the legal questions to international judicial decision and to abide by the result. The United Kingdom Government had even declared its readiness to enter into negotiations with the Spanish Government with a view to Gibraltar's becoming a part of Spain, should the people of Gibraltar vote in favour of that solution. That new and very important commitment did not seem to have been accorded the recognition it deserved. The United Kingdom Government had gone even further in stating - and that was surely an act without precedent - that if the people of Gibraltar opted by a free and democratic vote to retain their links with the United Kingdom, they would be free at any time to change their minds and vote for joining Spain. However, he had not heard in the Committee any acknowledgement of the importance of that new pledge.

152. As to the referendum, the United Kingdom had invited the Spanish Government to participate in the formulation of the first alternative, to explain its own proposals direct to the people of Gibraltar and to send an observer - not the acts of a Government antagonistic to Spain. Unfortunately, the Spanish Government had not responded in kind.

153. There were close and long-standing ties between the British people and the people of Gibraltar, and public opinion in Britain on the question of Gibraltar was intense. However, the problem was not being approached in a spirit of narrow nationalism, and all political parties in Britain were agreed that the people of Gibraltar had the right freely to express their views and to have those views taken into account. Decolonization could never mean the incorporation of Gibraltar in Spain against the inhabitants' wishes. Their rights were not to be bartered away and a denial of those rights would be intolerable. The British people were no more prepared to see the Gibraltarians' liberties spurned than their own. The British people were determined to defend the liberties of the people of Gibraltar, including their liberty to choose the incorporation of Gibraltar into Spain. The first necessity was that the people should be heard. When the choice had been made and the facts were thus before the United Nations, then whatever the result of the referendum there would be a wide range of matters for negotiation between Spain and the United Kingdom.

154. It had been said that the United Kingdom Government had not favoured the system of referendum elsewhere. That was quite true. In keeping with its parliamentary tradition, the United Kingdom preferred the method of adult suffrage, free elections and negotiation with the leaders so elected. That was good enough for the British people themselves although others might find democratic parliamentary procedures strange. However, the case of Gibraltar was unique, and the wish of the people must be openly and freely expressed in the clear light of world publicity. The United Kingdom would have liked Spain and the United Nations to send observers; however, failing that, the presence of observers from Commonwealth countries would provide the necessary guarantees of the fair and proper conduct of the referendum to be held on 10 September.

155. While the United Kingdom Government had been very ready to report, to explain and to co-operate with the Committee and with the Spanish Government, it could not share or shirk its responsibility as administering Power, and surely no one could dispute the United Kingdom's right to consult the people of a territory under its administration on a matter of fundamental importance to their future.

156. The attitude of the Spanish Government, on the other hand, had been strangely and misguidedly negative. It had neither welcomed the offers of the United Kingdom Government nor taken the opportunity to put its case to the people of Gibraltar. Nor had Spain sought by generosity and understanding to win over the Gibraltarians. Instead it had deliberately sought to alienate them and to antagonize the United Kingdom. It seemed determined not to allow negotiation except under duress.

Surprisingly enough, its policy seemed to be designed to alienate the sympathies of the people of Gibraltar. It was unfortunate that the Spanish Government should attempt to achieve its aims by such methods and pressure and coercion, which were out of place in the modern world, and especially unpopular at the United Nations.

157. In conclusion, he invited the Special Committee to remember the resolutions which nearly all had supported; not to deny the importance of the people's interests; and to reserve judgement until the voice of the people had been heard. Only after the administering Power had made its full report would the Committee be in a position to deliver a considered opinion. A vote for the resolution presented by the United Kingdom would not be a vote for Spain or the United Kingdom or even for the referendum, for which his Government took full responsibility. It would be a vote for reserving judgement until the missing factor was available - namely, the voice of the people concerned. It would be astonishing if the fundamental right of the people to be heard before a decision was taken were to be denied at the United Nations and by the Special Committee.

158. The representative of Spain, speaking in exercise of his right of reply, said that he wished to make clear some particulars of his Government's policy. His Government was in no way opposed to letting the people of Gibraltar express their views. Four years previously, the Committee had heard some petitioners who had been officials of the United Kingdom administration, subject to the authority of the Governor and employed at the military bases which had been established in the Territory after its population had been expelled.

159. He was surprised that the United Kingdom representative should again refer to the proposal to bring the matter before the International Court of Justice. The truth was that the United Kingdom Government was trying to find loop-holes, for decolonization questions were not matters to be submitted to the International Court of Justice.

160. He read out an article, published in the United Kingdom Press on 25 August, which mentioned movements of United Kingdom air force and naval units to Gibraltar; the presence of those troops at the time of the referendum gave reason to wonder whether the people would be able to express their wishes freely.

161. He also read out a cable he had received from his Government stating that it had denied a Norwegian military aircraft permission to fly over Spain on its way to Gibraltar, where it was to have participated in NATO military manoeuvres on 9 September. His Government had declared that it did not allow overflights of its territory by NATO aircraft because Spain was not a member of NATO, which wished to make use of military bases, such as Gibraltar, situated in usurped Spanish territory.

162. With regard to the referendum, he wondered what discretionary power the Governor had to manipulate the electoral rolls. In the first place, enrolment was subject to a cut-off on the date of birth, which had been set at 30 June 1925; in the second place, the Governor could decide to remove from the rolls the name of any person who had been disloyal to the Crown. Perhaps the United Kingdom had similar laws, but the United Kingdom was not the colony of anyone, whereas Gibraltar was a colonial Territory.

163. It was surprising to find that during the Second World War those loyal subjects of the British Crown had had to be completely evacuated from Gibraltar, while 13,000 Spanish workers had continued to go there to work and help the British. Apparently the United Kingdom Government had not considered it safe to allow those subjects to remain at their post when the Territory of Gibraltar was under attack. The use of the Territory for military purposes had resulted in the bombing of its railways, and there had been many victims.

164. The representative of Mali noted that the negotiations which had been held between the administering Power and Spain in conformity with General Assembly resolutions 2070 (XX) and 2231 (XXI) had not yielded the expected results. His delegation regretted that the Special Committee had decided to apply the method of consensus in settling the Gibraltar problem; that was tantamount to referring the question back to the Powers concerned, which were, by definition, opposed to each other. By resorting to that method, the Committee, which should take jurisdiction in all decolonization questions - and the level of development of the Powers concerned did not change in any way the colonial nature of the case - seemed to be trying to relinquish its responsibilities under resolution 1514 (XV).

165. As to the referendum which the United Kingdom was proposing to hold in Gibraltar, his delegation doubted the usefulness of such a consultation, the results of which were quite predictable. The Special Committee should ask the administering Power to refrain at present from any new initiative which was not covered by resolution 2231 (XXI). If the parties could not reach agreement, consideration should be given to finding means by which the United Nations could facilitate the search for a negotiated solution.

166. He was surprised that the administering Power should have expressed willingness to invite United Nations observers to be present at the consultation of 10 September in Gibraltar, whereas the United Kingdom had recently rejected the dispatch of United Nations observers to another Territory under its administration. There was a blatant contradiction in the attitude of the United Kingdom Government; respect for the will of the people, which was being flaunted in Gibraltar, was scarcely consistent with the policy pursued in Southern Rhodesia, where the people of Zimbabwe had never had the opportunity freely to express their views on their future and where the democratic rights of the indigenous inhabitants were systematically trampled on. In reality, the United Kingdom was trying to maintain its domination over Gibraltar, which might be of negligible importance in the perspective of global thermo-nuclear strategy but which constituted an essential link in a chain of military bases directed against young developing nations.

167. The draft resolution sponsored by Chile, Iraq and Uruguay was, in his delegation's view, a minimum text. The unilateral breaking off of the negotiations recommended in resolution 2231 (XXI) was a fait accompli which the Committee could not accept. In any event, he attached particular importance to operative paragraph 2 of the proposed text, which he read out, and to operative paragraph 4. He believed, as did the sponsors of the draft resolution, that some United Nations machinery should be set up to facilitate the success of further negotiations between Spain and the United Kingdom.

168. The representative of Syria supported the draft resolution sponsored by Chile, Iraq and Uruguay. The decolonization process in Gibraltar was at a standstill because the administering Power had failed to respect the relevant resolutions of the General Assembly, particularly resolution 2231 (XXI), which had been adopted without opposition. The United Kingdom would do better to comply with those

/...

resolutions instead of resorting to stratagems; it was in that spirit that the draft resolution submitted by the United Kingdom representative (A/AC.109/L.423) should be considered.

169. His delegation condemned the referendum which the United Kingdom was preparing to hold in Gibraltar. It did not, of course, oppose the idea of consulting the people; however, the proposed referendum was merely a trick designed to evade the real question, that of sovereignty.

170. The representative of the Union of Soviet Socialist Republics stressed the military aspect of the question of Gibraltar. The base and the military installations in the Territory were important parts of the strategic apparatus of the United Kingdom and its NATO allies. Moreover, the military aspects of the problem had been the central point of the discussions held between the United Kingdom and Spain, as was clear from the Secretary-General's report (see annex I). No solution that served the interests of the peoples involved - either the inhabitants of the Territory or the peoples of the United Kingdom and Spain - could be reached so long as the Territory remained a military stronghold of imperialism, and the bastion for the suppression of the national liberation movement of the peoples of the Near East, Asia and Africa.

171. The question of eliminating the Gibraltar military base had never been raised by the parties during their negotiations concerning the future of the Territory. On 18 May 1966 Spain had expressed readiness to accept the presence at Gibraltar of the United Kingdom base, the status of which would be the subject of a special agreement, and to participate "enthusiastically" in the use of the base, in co-operation with the United Kingdom or with "the defence organization of the free world". That position of the Spanish Government obviously bore no relation to the interests of the Spanish people and the other peoples of the Mediterranean region, whose security would be seriously threatened by the presence of stockpiles of NATO rockets and atomic bombs in the Territory. The nuclear weapons which the NATO countries were preparing to install in the region would be used to support various forms of provocation and aggression against the peoples of Africa and the Middle East and the other peoples as well. The fact that Gibraltar was torn away from Spain and converted into a British colony and then into a military base, which had been for centuries used for carrying out the colonial

policy of the British ruling classes, did not raise any doubts in the Committee. But the deal which the Franco régime was proposing to make with the United Kingdom on the question of Gibraltar did not remove the possibilities of using the Gibraltar base for continuation of the same colonialist and imperialist policy, only now in interest of "the defence organization of free world". The representative of the United Kingdom claimed that the forthcoming referendum in Gibraltar was aimed at enabling the people of the Territory to exercise its right to self-determination. However that statement was nothing else but manoeuvre. If the British Government cared so much about the self-determination of the people of Gibraltar, why did it withhold that right from the people of Zimbabwe. Moreover, there were no doubts about the validity of a referendum held under conditions of military occupation; the result of the proposed referendum would certainly be what the colonial Power wanted. The real purpose of the referendum was to maintain colonial rule over the Territory in one form or another, a fact which the United Kingdom representative did not trouble to conceal, and thus to preserve its military base in Gibraltar. The problem of decolonizing Gibraltar could not be separated from that of dismantling the military base and demilitarizing the area. Any effective measure to end the colonial status of the Territory implied first of all the liquidation of the base and the air and naval military installations now situated there.

172. The representative of Spain, speaking in exercise of the right of reply, pointed out that the Spanish Government's statements and proposals mentioned by the representative of the Soviet Union were no longer valid. The proposals of 18 May 1966, referred to by the Soviet representative, had been superseded by other proposals which he himself had formulated on 14 December in the Fourth Committee.

173. The new Spanish proposals made no mention of any joint use of the Gibraltar base by Spain and the United Kingdom. Indeed the Spanish Government had rejected the United Kingdom proposal of 12 July 1966 concerning joint use of the base. Similarly, on 17 June, as was indicated in the Secretary-General's report, the Spanish Government had formally invited the United Kingdom Government to renounce all military use of the airfield situated on the isthmus connecting Gibraltar with the rest of the peninsula.

174. Spain had asked the United Kingdom Government to draw a clear distinction between its military interests and the interests of the people of the Territory. Spain hoped that sovereignty over Gibraltar would be returned to it, but it understood the concern of the United Kingdom Government, which wanted to be able to use the military base during the transition period that would precede the restoration of Spanish sovereignty over the Territory. For its part, Spain held that it had complete freedom to make whatever proposals it deemed appropriate, so long as the United Nations had not adopted any resolution on the subject. He wished to assure the Soviet representative, however, that the granting of a military base to the United Kingdom had not been envisaged in the Spanish proposals of 14 December. Lastly, he stated that Spain would be prepared to support any proposal that might be submitted by the Soviet or any other delegation for the dismantling of the Gibraltar military base.

175. The representative of the United Kingdom, exercising the right of reply, said he wished to deal with the four points raised during the meeting. Naval manoeuvres took place constantly in the Mediterranean and the Atlantic as everyone knew; they included operations not only by United Kingdom vessels but also by NATO vessels and by vessels of the Union of Soviet Socialist Republics. There was nothing exceptional about those activities, and the fact that a change of mine-sweeping personnel, arranged long before, was to take place at about the same time as the referendum was quite unconnected with the matter under discussion.

176. As to the question of the register for the referendum, the United Kingdom believed that the genuine inhabitants of Gibraltar, as distinct from those who were not permanent residents, should have the right to vote and so to express their views. The voting regulations were designed to bring this about. If there was any doubt about the fairness of the referendum, the Spanish Government and the United Nations were invited to send observers. In any case the presence of Commonwealth observers should constitute a sufficient guarantee.

177. With respect to permission for Spanish workers to stay and spend the night in Gibraltar, there were certain restrictions regarding outside residents, as the restricted size and limited accommodation of Gibraltar required, but the necessary permission to enable Spanish workers to live and sleep in Gibraltar had been readily given for years. The number of such applications granted, which had for some time been about 1,500 a year, had begun to decrease only when the Spanish Government had created difficulties and imposed restrictions.

178. Lastly, in reply to the Malian representative, he said that the United Kingdom, far from clinging to its Territories in Gibraltar or elsewhere, had for twenty years made a greater contribution to ending colonialism than any other country; indeed 99 per cent of the inhabitants of the former British colonial empire now lived in independent countries.

179. The United Kingdom had always upheld the principle of consultation and consent, and it therefore believed that the inhabitants of Gibraltar should not be denied the right to express their views freely and to have those views taken into account.

180. The representative of the Union of Soviet Socialist Republics took note of the Spanish representative's statement that the Spanish Government had withdrawn its proposal of 18 May 1966.

181. In his view, the demilitarization of Gibraltar depended not on Spain but on the United Kingdom, and so long as it had not been effected, the will of the people could not be freely manifested; a people in chains could not express its will.

182. The representative of Spain, returning to the question of permission for non-residents to stay overnight in Gibraltar, pointed out that permission was given only to domestic servants and to nuns working in hospitals and not to Spanish workers. Since the Immigration and Alien Ordinance had been passed in 1845, Spanish workers had been unable to reside permanently or stay in Gibraltar which, but for that fact, would have a typically Spanish population like the rest of the area.

183. The representative of Mali said that, while entirely agreeing with the United Kingdom representative's arguments concerning decolonization and the right of self-determination, he wished to state his delegation's position on certain points.

184. In the first place, while the United Kingdom might justifiably pride itself on having contributed to the liberation and decolonization of a large percentage of the peoples of States Members of the United Nations, the fact remained that, in doing so, it had merely given those people their due and rectified a state of affairs that was incompatible with the normal course of history.

185. Decolonization was an ineluctable process, in keeping with a new situation in which world problems and power relationships had to be viewed in the light of changed conditions. There were two possible attitudes: to withstand the tide

of history, as some countries, like South Africa and Rhodesia, were still doing, or to go along with history, as many others had done.

186. His delegation had not accused the United Kingdom of seeking to cling to its colonial positions. As the result of the question raised by the representative of Uruguay, his delegation had simply been led to consider certain historical factors and to reflect on the strategic importance of the Mediterranean - known as Mare Nostrum at the time of the Romans - which had served as a justification for many conquests and military occupations. That consideration had prompted it to say that Gibraltar and the Suez Canal were the two keys to the control of the Mediterranean. His delegation had therefore been very disturbed to hear that British naval vessels were being fitted out there a few days before the outbreak of hostilities.

187. The representative of the United Kingdom said that he greatly appreciated the spirit in which the representative of Mali had spoken, but pointed out that it was not correct to say that the main concern of the United Kingdom was to maintain its position in Gibraltar. If the International Court of Justice found the United Kingdom's claim to be legally unsound, the United Kingdom would accept its judgement.

188. Furthermore, if the inhabitants of the Territory wished to be associated with Spain, immediate action would be taken to give effect to their wish.

189. The United Kingdom Government felt an absolute obligation to the people with whom it was associated. It believed that it had an obligation to consult them and to take their wishes into account. The circumstances of Gibraltar were certainly unique. But neither the Special Committee nor any other United Nations committee or council could ever say that the inhabitants of any territory, whatever the circumstances, had not the right to be heard before decisions were taken concerning them.

190. The representative of Iraq, introducing a revised text (A/AC.109/L.424/Rev.1) of the draft resolution submitted by Chile, Iraq and Uruguay, with the addition of Syria as a fourth co-sponsor (A/AC.109/L.424/Rev.1/Add.1) said that the sponsors had taken the suggestions of certain delegations into account and believed that the new text would be generally acceptable, since it contained no condemnation and asked for nothing that had not already been approved by the overwhelming

/...

majority of Member States. They trusted that the Spanish delegation would be able to accept the text and felt that it was now for the United Kingdom to show goodwill.

191. The draft resolution aimed only at the implementation of the existing resolutions and should therefore be readily accepted by the administering Power and unanimously adopted by the Committee.

192. The representative of the United Kingdom said that he opposed in the strongest terms the wholly partisan draft resolution set out in document A/AC.109/L.424/Rev.1 and Rev.1/Add.1. In purporting to deal with territorial claims, it exceeded and offended the mandate of the Special Committee. With regard to the referendum, it contravened the General Assembly resolution which required that the interests of the people should be taken into account. The revised draft reinforced his argument that no final decisions should be taken at the present time. It would be a grave departure from United Nations traditions and the provisions of Chapter XI of the Charter, and from the principles of elementary justice, to deny a hearing to the people principally concerned. Their liberties should not be denied or betrayed but respected and protected. He accordingly urged that judgement should be reserved and impartiality maintained until the people of Gibraltar had been able freely to express their own views.

193. The representative of Afghanistan said that the interest of the inhabitants of Gibraltar demanded that the Special Committee should base its decision on resolution 2231 (XXI), in which the General Assembly had taken the view that under the prevailing circumstances the continuation of negotiations between the administering Power and Spain was the most effective means of achieving a workable solution to the problem of Gibraltar. No matter how great the difficulties, the Government of Spain and the Government of the United Kingdom should try to resume their negotiations in order to expedite the decolonization of the Non-Self-Governing Territory of Gibraltar. Since the revised version of the draft resolution (A/AC.109/L.424/Rev.1 and Add.1) reflected more accurately the aims and purposes of General Assembly resolution 2231 (XXI), it had his delegation's general approval.

194. Nevertheless, he believed that the sponsors might be well advised to alter operative paragraph 2 to read: "Declares that the convening by the administering Power of the proposed referendum has not been envisaged by resolution 2231 (XXI)".

In that way the paragraph would make a statement of fact instead of taking a negative approach to the holding of a referendum. A referendum held in conditions of justice and equity was the most effective means of ascertaining the will of the people living under colonial domination. In a United Nations text the use of the concept of referendum as it was at present intended in operative paragraph 2 of the four-Power draft resolution should be avoided. The General Assembly had asked for negotiations between Spain and the United Kingdom. It was difficult to anticipate the results of those negotiations. If the holding of a referendum was the outcome, reached with the agreement of the Government of Spain, the decision should be respected.

195. For those various reasons he would vote in favour of the four-Power draft resolution but would abstain on operative paragraph 2 if it was put to the vote separately. He would abstain on the draft resolution (A/AC.109/L.423) submitted by the United Kingdom.

196. The representative of Syria believed that the criticisms levelled against the revised draft resolution (A/AC.109/L.424/Rev.1 and Add.1), of which his delegation was a sponsor, had no justification. Firstly, by conceding that the question of Gibraltar was a colonial question, the United Kingdom itself recognized that it came within the competence of the Special Committee. Thus, the Special Committee could not be reproached for dealing with the question. Secondly, operative paragraph 3 of the revised draft resolution provided expressly for safeguarding the interests of the inhabitants. Thirdly, as the representative of Afghanistan had implied, the holding of a referendum was a unilateral step outside the process of negotiations stipulated so clearly in General Assembly resolution 2231 (XXI).

197. The representative of Sierra Leone said that the two main issues raised during the Special Committee's discussions on the question of Gibraltar had related, first, to General Assembly resolution 2231 (XXI), operative paragraph 2, and, secondly, to paragraph 6 of the Declaration contained in General Assembly resolution 1514 (XV).

198. His delegation had sponsored the amendment which had led to the inclusion in resolution 2231 (XXI), paragraph 2, of the words "taking into account the interests of the people of the Territory" because it believed that the question of Gibraltar could not be simply a matter for negotiation between the United

Kingdom and Spain. The interests of the people of any Territory could certainly be ascertained by consultation in the form of a referendum; in the case of Gibraltar, the question was whether the administering Power should have consulted Spain first. It had been stated that Spain had been invited to participate in the referendum and had rejected the opportunity to do so. Thus, the issue appeared to be one of interpretation by the two Powers involved. In any event, his delegation could not support the wording used in paragraph 2 of the joint draft resolution (A/AC.109/L.424/Rev.1 and Add.1).

199. With regard to paragraph 6 of the Declaration on the Granting of Independence to Colonial Countries and Peoples, his delegation considered that that provision, like General Assembly resolution 1514 (XV) as a whole, was directed specifically at Non-Self-Governing Territories; consequently, Spain's claim of disruption of its territorial integrity was not relevant and could not be discussed by the Committee, which was competent to discuss only colonial questions. If Gibraltar was a colonial Territory, the Committee was competent to discuss it, but it must treat it entirely as a colonial question. He could not, therefore, support the fifth preambular paragraph of the joint draft resolution.

200. His delegation could support the other paragraphs of that draft resolution; it naturally regretted that interruption of the negotiations between the United Kingdom and Spain and hoped that those two Powers would resume negotiations in order to determine how to solve the problem. However, it could not support the draft resolution as a whole and would abstain from voting on it.

201. His delegation also had difficulties with regard to the United Kingdom draft resolution (A/AC.109/L.423). While it could not reject the idea of a referendum, it questioned the way in which the referendum was to be carried out. However, it felt that the Committee was not yet in a position to pronounce itself on the Territory. Since the referendum was to be held on 10 September and the Committee envisaged closing its session by 15 September, it was unlikely that the full report envisaged would be available before the end of the current session. Consequently, he could not support that draft resolution and would abstain from voting on it.

202. The representative of the United Republic of Tanzania said that, while his delegation supported the joint draft resolution (A/AC.109/L.424/Rev.1 and Add.1) in principle, it had certain reservations, particularly with regard to the fifth preambular paragraph. Its interpretation of paragraph 6 of the Declaration differed substantially from that given by the sponsors of the draft resolution, so far as its applicability to Gibraltar was concerned. In his delegation's view, paragraph 6 was applicable only to colonial Territories, and to link it with the question of the sovereignty of independent States would be bound to have far-reaching consequences. While his delegation had hoped that operative paragraph 3 of the draft resolution could be improved, it would not press its objections and would support the draft resolution as a whole, subject to its reservations on the fifth preambular paragraph.

203. His delegation could not agree with the purpose of the United Kingdom draft resolution (A/AC.109/L.423), since it involved tactics far removed from the co-operation for which the Committee had repeatedly called. Moreover, the Committee had already described the proposed referendum as "untimely". His delegation would prefer to abide by the spirit of General Assembly resolution 2231 (XXI).

204. The representative of Australia said that there were three points in the joint draft resolution (A/AC.109/L.424/Rev.1 and Add.1) which his delegation could not accept. First, since his delegation understood paragraph 6 of the Declaration to apply solely to the disruption of dependent Territories, it could hardly be taken to apply to Gibraltar, and the fifth preambular paragraph was therefore out of place in a resolution on that Territory. Secondly, with regard to operative paragraph 2, his delegation could not agree that the holding of the referendum would contradict the provisions of General Assembly resolution 2231 (XXI); it seemed a very sound idea to hold a referendum in order to ascertain the wishes of the people of Gibraltar at the present stage. Finally, his delegation felt that the words "safeguarding the interests of the population", which represented the essence of the matter, were not given sufficient emphasis in operative paragraph 3.

205. His delegation could not, therefore, support the joint draft resolution and would vote against it. In the belief that the referendum was one stage, and a necessary stage, in the process of decolonization, it would vote for the United Kingdom draft resolution (A/AC.109/L.423).

206. The representative of Mali said that his delegation would have to vote against the United Kingdom draft resolution (A/AC.109/L.423), the purpose of which was simply to take the question of Gibraltar out of the Special Committee's hands. It was no accident that the draft resolution made no reference to General Assembly resolution 1514 (XV), the charter of decolonization; that omission was evidence of the United Kingdom's desire to divest the problem of its colonial nature. Moreover, the United Kingdom text contained nothing positive which would promote a solution. To express regret that no progress had so far been made would be tantamount to an admission of failure, since it would emphasize that the negotiations recommended in General Assembly resolution 2231 (XXI) had not resulted in an agreement. Nor was it proper for the Committee to "note" the declared intention of the administering Power to consult the people, since many members of the Committee had criticized that intention; it would be more appropriate for the Committee to express its disapproval of the administering Power's intention. While the Committee did not oppose consultations - quite the reverse - everything depended on how they were carried out. With regard to the seventh preambular paragraph, it was precisely because the Committee had heard the views expressed concerning the referendum and other questions relating to Gibraltar that it must call on the administering Power to continue its negotiations, as envisaged in General Assembly resolution 2231 (XXI), and not to embark on a course of action which the Committee could not fully endorse. The last preambular paragraph - the key paragraph of the draft resolution - was particularly dangerous, since it implied that General Assembly resolution 2231 (XXI) had called for a report on the referendum, whereas in fact it had not even mentioned the possibility of a referendum. With regard to the operative paragraph, he agreed with the representative of Sierra Leone; it was no accident that the referendum was to be held just before the opening of the twenty-second session of the General Assembly, to which the Special Committee must report. The Committee should take much more positive action than was recommended by the United Kingdom.

207. In his delegation's view, the joint draft resolution (A/AC.109/L.424/Rev.1 and Add.1) represented the bare minimum that was acceptable, particularly since it overlooked the Committee's responsibility to urge the administering Power to refrain from any action which was not endorsed by the Committee. Nevertheless, his delegation would vote in favour of it.

208. The representative of the Union of Soviet Socialist Republics said that his delegation would vote in favour of the joint draft resolution (A/AC.109/L.424/Rev.1 and Add.1), since it provided for negotiations between the Governments of the United Kingdom and Spain with a view to putting an end to the colonial situation in Gibraltar and to safeguarding the interests of the population thereafter. It would vote against the United Kingdom draft resolution (A/AC.109/L.423) because the holding of the referendum would result in the perpetuation of United Kingdom domination in Gibraltar and the maintenance of its military base there.

209. The representative of Bulgaria thanked the sponsors of the joint draft resolution for their efforts to take into account the views of other members. His delegation would support that draft resolution, although it believed that no correct solution to the problem of Gibraltar could be found until the military bases in the Territory were dismantled.

210. With regard to the United Kingdom draft resolution, his delegation had always defended the right of colonial peoples to self-determination and insisted that an administering Power, in conformity with General Assembly resolution 1514 (XV), should enable the people of a dependent Territory to exercise that right freely. However, a referendum organized and conducted under military occupation could have only one result, namely, the perpetuation of the colonial situation in one form or another and the continued presence of military bases in the Territory.

211. At the 500th meeting, the draft resolution sponsored by the United Kingdom (A/AC.109/L.423) was rejected by 10 votes to 3, with 11 abstentions. The revised draft resolution co-sponsored by Chile, Iraq, Syria and Uruguay (A/AC.109/L.424/Rev.1 and Add.1) was adopted by a roll-call vote of 16 to 2 with 6 abstentions, as follows:

<u>In favour:</u>	Afghanistan, Bulgaria, Chile, Iran, Iraq, Italy, Ivory Coast, Mali, Poland, Syria, Tunisia, Union of Soviet Socialist Republics, United Republic of Tanzania, Uruguay, Venezuela, Yugoslavia.
<u>Against:</u>	Australia, United Kingdom of Great Britain and Northern Ireland.
<u>Abstaining:</u>	Ethiopia, Finland, India, Madagascar, Sierra Leone, United States of America.

212. The representative of Italy, speaking in explanation of his vote, said that his delegation's position on the question of Gibraltar, which had been made clear by its support of General Assembly resolution 2231 (XXI), was that the best way to solve the dispute was through negotiations between the administering Power and Spain, taking into account the interests of the people of the Territory. The fact that he had voted in favour of the joint draft resolution should not be taken as an unqualified endorsement of a certain interpretation of General Assembly resolution 1514 (XV) which, although worthy of further consideration, was not universally accepted either in the Special Committee or in the General Assembly. Rather, his delegation would emphasize the last preambular paragraph of resolution 2231 (XXI), regretting the occurrence of certain acts which had prejudiced the smooth progress of the negotiations. His delegation would have preferred a different formulation for operative paragraph 2 of the resolution which the Committee had adopted, in order to avoid creating obstacles to a resumption of the negotiations between the two Governments. He sincerely hoped that the decolonization of Gibraltar would not be a source of contention and controversy, but would help to promote harmony among all the countries in that region.

213. The representative of Tunisia said that his delegation was opposed, not to the holding of a referendum as a means of determining the views of the population, but rather to the manner in which it was being organized by the administering Power. General Assembly resolution 2231 (XXI) had called for negotiations between the United Kingdom and Spain, taking into account the interests of the people of the Territory, and had made no mention of a referendum. His delegation had therefore been unable to support the United Kingdom draft resolution. He hoped that the Special Committee would not recognize the results of the forthcoming referendum as valid and that a solution acceptable to all would be found.

214. The representative of Spain said that his Government fully accepted the results of the vote in the Special Committee. It hoped, in a spirit of co-operation and friendship, to reopen negotiations with the United Kingdom Government immediately with a view to the decolonization of Gibraltar.

215. The text of the resolution (A/AC.109/266) adopted by the Special Committee at its 500th meeting on 1 September 1967 reads as follows:

The Special Committee,
Having examined the question of Gibraltar,
Having heard the statements of the administering Power and the representative of Spain,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960,

Recalling further General Assembly resolutions 2231 (XXI) of 20 December 1966 and 2070 (XX) of 16 December 1965, and the Consensus adopted on 16 October 1967^{7/} by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Considering that any colonial situation which partially or totally disrupts the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations and specifically with paragraph 6 of General Assembly resolution 1514 (XV),

1. Regrets the interruption of the negotiations which were recommended in General Assembly resolutions 2070 (XX) and 2231 (XXI);

2. Declares that the holding by the administering Power of the envisaged referendum would contradict the provisions of resolution 2231 (XXI);

3. Invites the Governments of the United Kingdom of Great Britain and Northern Ireland and Spain to resume without delay the negotiations provided for in General Assembly resolutions 2070 (XX) and 2231 (XXI) with a view to putting an end to the colonial situation in Gibraltar and to safeguarding the interests of the population upon the termination of that colonial situation;

4. Requests the Secretary-General to assist the Governments of the United Kingdom and Spain in the implementation of the present resolution, and to report thereon to the General Assembly at its twenty-second session.

216. By identical letters dated 1 September 1967, the Secretary-General transmitted the text of this resolution to the Permanent Representatives of the United Kingdom of Great Britain and Northern Ireland and of Spain for the attention of their respective Governments.

^{7/} Official Records of the General Assembly, Nineteenth Session, annex No. 8 (A/5800/Rev.1), chapter X, para. 209.

217. The text of a communication dated 6 September 1967 from the Permanent Representative of the United Kingdom in reply to the Secretary-General's letter of 1 September 1967 is reproduced as annex II.

218. Subsequently, the Permanent Representative of the United Kingdom and the Deputy Permanent Representative of Spain addressed letters to the Secretary-General, dated 25 October and 30 October respectively, which are reproduced as annexes III and IV.

ANNEX I*

Report of the Secretary-General

1. At its twenty-first session, the General Assembly adopted resolution 2231 (XXI) of 20 December 1966 on the question of Gibraltar. The text of the resolution reads as follows:

"Question of Gibraltar

"The General Assembly,

"Having examined the question of Gibraltar,

"Having heard the statements of the administering Power and the representative of Spain,

"Having heard the statements of the petitioners,

"Recalling its resolution 2070 (XX) of 16 December 1965, and the consensus adopted by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples on 16 October 1964, a/

"Recalling further its resolution 1514 (XV) of 14 December 1960,

"Taking into account the noted willingness of the administering Power and of the Government of Spain to continue the present negotiations,

"Regretting the occurrence of certain acts which had prejudiced the smooth progress of these negotiations,

"1. Regrets the delay in the process of decolonization and in the implementation of General Assembly resolution 1514 (XV) with regard to Gibraltar;

* Previously reproduced under the symbols A/AC.109/254 and Add.1.

a/ See Official Records of the General Assembly, Nineteenth Session, Annexes, annex No. 8 (part I) (A/5800/Rev.1), chapter X, para. 209.

"2. Calls upon the two parties to continue their negotiations, taking into account the interests of the people of the Territory, and asks the administering Power to expedite, without any hindrance and in consultation with the Government of Spain, the decolonization of Gibraltar, and to report to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples as soon as possible, and in any case before the twenty-second session of the General Assembly;

"3. Requests the Secretary-General to assist in the implementation of the present resolution."

2. In identical letters dated 19 January 1967, the Secretary-General transmitted the text of the resolution to the Permanent Representatives of the United Kingdom of Great Britain and Northern Ireland and Spain to the United Nations. The text of the letters reads as follows:

"I have the honour to transmit herewith, for the attention of your Government, the text of resolution 2231 (XXI) concerning Gibraltar, adopted by the General Assembly at its 1500th plenary meeting on 20 December 1966.

"In this connexion I wish to note that operative paragraph 2 of this resolution is addressed to your Government and to that of Spain/United Kingdom. I wish also to note that the General Assembly has requested me to assist in the implementation of the resolution. In expressing the hope that the present negotiations between the parties concerned will prove to be successful, I stand ready to offer assistance, as requested by the General Assembly, in the implementation of the resolution."

3. In a letter dated 30 January 1967, the Permanent Representative of Spain addressed the following reply to the Secretary-General's letter of 19 January 1967:

"I have the honour to acknowledge receipt of your letter of 19 January 1967, in which you transmit for the attention of my Government the text of resolution 2231 (XXI) concerning Gibraltar, adopted by the General Assembly at its 1500 plenary meeting on 20 December 1966.

"The Spanish Government asks me to convey to you its appreciation for the help you are willing to give for the better fulfilment of resolution 2231 (XXI). My Government, for its part, is also willing sincerely to fulfil the recommendations in that resolution.

"In this connexion, it wishes to inform you of the following:

"1. On 14 December 1966, Spain - which had rejected the proposal that the question of Gibraltar should be submitted to the International Court of Justice, considering it to be contrary to General Assembly resolutions 1514 (XV) and 2070 (XX) - proposed to the United Kingdom:

"(a) That the two countries should without delay start negotiations on the 'statute' to protect the interests of the residents of the territory of Gibraltar after the end of the colonial situation in Gibraltar. This 'statute' would be registered with the United Nations.

"(b) If Spain and the United Kingdom cannot reach agreement on the 'statute', the Spanish Government is willing to submit for the consideration and eventual approval of the Secretary-General of the United Nations a draft 'statute' for the inhabitants of Gibraltar, in which they would be granted all the rights of any human community, except the right to possess a piece of Spanish territory, since that would be contrary to resolution 1514 (XV), which in paragraph 6 advocates respect for the territorial integrity and national unity of colonized countries.

"(c) In its desire to reach a constructive solution to the problem of Gibraltar, the Spanish Government is willing to negotiate with Her Britannic Majesty's Government a provisional agreed arrangement to safeguard the United Kingdom interests in Gibraltar which the United Kingdom wishes to protect, to the extent that the maintenance of these interests is not contrary to the Charter of the United Nations or the resolutions which have been or may be adopted by the General Assembly.

"(d) As a further guarantee offered by Spain for United Kingdom and Gibraltarian interests, the Spanish Government undertakes to submit to the International Court of Justice any difference which may arise in the interpretation of any treaty or treaties between Spain and the United Kingdom constituting the new 'status' of Gibraltar, after paragraph 6 of resolution 1514 (XV) has been applied to it.

"2. On 17 December 1966, after the text of resolution 2231 (XXI) had been adopted by the Fourth Committee - which already knew the position of my Government regarding the proposal that the question of Gibraltar should be submitted to the International Court of Justice - the Permanent Representative of the United Kingdom, Lord Caradon, said that the United Kingdom was ready 'to continue the negotiations'.

"The Spanish Government is therefore awaiting the reply of the United Kingdom to the latest proposal made to it on 14 December. As you will see, the Spanish proposal was in line with operative paragraph 2 of resolution 2231 (XXI), which called upon the two parties 'to continue their negotiations, taking into account the interests of the people of the Territory'.

/...

"3. In operative paragraph 2 of resolution 2231 (XXI), the General Assembly asked the United Kingdom 'to expedite, without any hindrance and in consultation with the Government of Spain, the decolonization of Gibraltar'.

"In his statement before the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples on 11 November (document A/AC.109/SR.475), the representative of Spain had told the Committee how, after the start of the negotiations recommended by resolution 2070 (XX), on 12 July 1966 the United Kingdom had proclaimed its sovereignty over Spanish territory adjacent to Gibraltar, where it had illegally constructed an airfield that it was using for military purposes, with consequent violations of Spanish air space, against which the representative of Spain protested.

"The Spanish Government considers that the gesture made by the United Kingdom on 12 July 1966 constitutes aggression against Spanish sovereignty and is therefore a serious obstacle placed by the United Kingdom in the way of the negotiations on Gibraltar.

"Consequently, it regrets to inform you that, after the adoption of resolution 2231 (XXI) by the General Assembly, on 5 January the United Kingdom sent the Spanish Government a note verbale, a copy of which is enclosed. As you will see, the United Kingdom rejects the just observations made by my Government in a note of 30 November 1966, which is also enclosed, and reveals its determination to continue using for military purposes an illegal airfield situated in Spanish territory adjacent to Gibraltar. For your information, I enclose a list of United Kingdom military aircraft which have used this airfield since 12 July 1966 and diagrams of the five latest violations of Spanish air space committed by the above-mentioned United Kingdom military aircraft.

"The Spanish Government, which replied to the United Kingdom Government in a note of 16 January 1967, also enclosed, requests me to draw your attention to the persistence with which the United Kingdom, by its attitude threatening Spanish sovereignty, is putting deliberate obstacles in the way of the negotiations on Gibraltar."

4. In a letter dated 23 February 1967, the Permanent Representative of Spain to the United Nations transmitted to the Secretary-General a photocopy of note No. 60 of 17 February from the United Kingdom Embassy in Madrid addressed to the Spanish Minister of Foreign Affairs on the subject of violations of Spanish air space. In the same letter, the Permanent Representative of Spain also transmitted a photocopy of note verbale No. 47 of 20 February from the Spanish Minister of Foreign Affairs addressed to the United Kingdom Embassy in Madrid, protesting a violation of Spanish air space.

5. In another letter, dated 27 February 1967, the Permanent Representative of Spain to the United Nations transmitted to the Secretary-General a photocopy of note verbale No. 49 of 24 February 1967, from the Ministry of Foreign Affairs of Spain addressed to the United Kingdom Embassy in Madrid concerning violations by British military aircraft of Spanish air space.
6. In a note verbale dated 4 April 1967, the Permanent Representative of the United Kingdom to the United Nations transmitted to the Secretary-General a copy of a note dated 16 March 1967, from the United Kingdom Embassy in Madrid addressed to the Spanish Minister of Foreign Affairs, in reply to two notes of the Spanish Minister dealing with alleged violations of Spanish air space by British military aircraft.
7. In a letter dated 18 April 1967 addressed to the Secretary-General, the Permanent Representative of Spain stated as follows:

"Spain understands the need for decolonization, since my country was the first to experience a colonial phenomenon on its own soil. However, it cannot conceive of a different yardstick being used so that, while the Spanish Government is accelerating the political development of its African territories, the delays being placed in the way of the decolonization of Gibraltar are impassively allowed and accepted.

"In this connexion, I would remind you of my letter dated 30 January 1967, in which my Government, mindful of operative paragraph 3 of resolution 2231 (XXI), requested your assistance in overcoming peaceful and constructively the obstacles which the United Kingdom Government is creating during the course of the negotiations between Spain and the United Kingdom, even after the approval of the above-mentioned resolution 2231 (XXI), for the decolonization of Gibraltar in agreement with Spain.

"Since 16 October 1964 - the date on which the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples recommended the solution of this problem - my Government had to ask the United Kingdom Government nine times to start negotiations, before it agreed to do so; the offers made by Spain on 19 May 1966 have so far been ignored.

"The United Kingdom Government has still not replied to the latest Spanish proposals of 14 December 1966 and this is paralysing the negotiations. At the same time, this silence has been accompanied, on the part of Her Britannic Majesty's Government, by an attempt to remove the case of Gibraltar from the process of decolonization and from the competence of the United Nations General Assembly, by proposing instead that the International Court of Justice should pass judgement on the colonial legal titles on which the United Kingdom is basing its presence on a piece of our territory.

"This attitude towards the repeated decisions of the United Nations is serious but there is another fact to which the Spanish Government must draw your attention. After the start of the negotiations, on 12 July 1966 the United Kingdom proclaimed its sovereignty over an additional piece of Spanish territory, depriving it of its former neutral character and using it for military purposes in such a way that Spanish air space is being continually violated by United Kingdom aircraft. As it has repeated on various occasions, my Government therefore considers this to be not only a United Kingdom policy of opposition to the principle of decolonization but also a form of active colonialism which claims, in the middle of the twentieth century, that a State can seize a territory without so far having any legal title to authorize such an appropriation.

"My Government, which wishes to undertake the process of decolonization with the assistance of the United Nations, also hopes that the Organization will help us to eliminate from our soil a colonial situation, which is already ripe to disappear and is threatening the territorial integrity and national unity of Spain."

8. On 21 April 1967, the Permanent Representative of the United Kingdom addressed to the Secretary-General the following communication:

"I have the honour to inform you of the position reached by Her Majesty's Government in seeking to meet the request in General Assembly resolution 2231 (XXI) about Gibraltar.

"On 29 March, Her Majesty's Government invited the Spanish Government to talks to be held in mid-April in pursuance of resolution 2231 (XXI). On 3 April, the Spanish Government accepted this invitation and agreed that the talks should start in London on 18 April.

"On 12 April, the Spanish Government published an Order declaring a new prohibited area for aircraft in the vicinity of Gibraltar. This measure appears to be designed to impede access by both civilian and military aircraft to Gibraltar. This is a further example of an act prejudicing the smooth progress of negotiations, the occurrence of which was regretted in resolution 2231 (XXI) and a hindrance to the implementation of that resolution. Her Majesty's Government were not consulted by the Spanish Government or informed of their intention in advance of the publication of the Spanish Order.

"The practical implications of the Spanish Order have yet to be established. But it has clearly introduced a new element into the situation. Her Majesty's Government therefore informed the Spanish Government on 13 April that they had decided to postpone the talks due to be held on 18 April.

"Her Majesty's Government intend to review the question of consultations in accordance with resolution 2231 (XXI) as soon as the implications of the measure announced in the Spanish Order are clear. Her Majesty's Government

intend in any case to pursue the objectives recommended in resolution 2231 (XXI), having regard to that and other relevant resolutions of the General Assembly, the obligations of Her Majesty's Government under the United Nations Charter, the interests of the people of Gibraltar, the obligations of Her Majesty's Government under the Treaty of Utrecht and the legitimate interests of Spain."

9. In a letter dated 20 April 1967, the Permanent Representative of Spain informed the Secretary-General of the position of the Spanish Government. The text of the letter reads as follows:

"My Government instructs me to inform you of the following:

"Primo - On 29 March 1967, the United Kingdom Government officially informed the Spanish Government, in the attached memorandum, b/ that it was willing to resume on 18 April 1967 the negotiations on the decolonization of Gibraltar recommended by resolution 2231 (XXI). These negotiations had been suspended since 14 December 1966, because since that date the United Kingdom has not replied to the Spanish proposal that discussions should start without delay on a statute which would protect the interests of the Gibraltarians, as a prerequisite for the decolonization of the Rock.

"The protection of the interests of the inhabitants of Gibraltar, which Spain has always posed as a condition for ending the colonial situation in Gibraltar, was recommended by the United Nations.

"Secundo - On 3 April 1967, Spain accepted the date of 18 April for the resumption of negotiations with the United Kingdom for the purpose of decolonizing Gibraltar.

"On 12 April, the Spanish Government, in exercise of its sovereign right and for reasons of military necessity and public safety, in accordance with the Chicago Convention of 1944, declared that the air space over the Campo de Gibraltar and its territorial waters were prohibited to air traffic.

"You are already aware of the violations of Spanish air space denounced by my Government, since I informed you of them in my notes No. 14 of 30 January, No. 23 of 23 February and No. 24 of 27 February.

"When the Spanish Government was preparing to send its delegation to resume negotiations with the United Kingdom, the latter - taking as a pretext the above-mentioned Spanish declaration of 12 April and confusing the defence of our sovereignty with the problem of decolonization - orally informed the Ambassador of Spain in London on 14 April that it had decided to adjourn the negotiations sine die.

"On 17 April, the Permanent Mission of Spain informed you of the Spanish decision to establish the above-mentioned prohibited area.

b/ At the request of the Permanent Representative of Spain, the text of this letter and the memorandum attached to it were circulated to all Permanent Missions of the States Members of the United Nations in a note verbale from the Secretary-General dated 25 April 1967. /...

"Tercio - Spain's affirmation of sovereignty over this area provoked a reaction from the United Kingdom on which my Government will not comment; it believes, however, that the measure taken by Spain in no way justifies the interruption of the negotiations recommended by the United Nations General Assembly.

"Quarto - On behalf of the Spanish Government, I therefore request you to inform the United Kingdom that its suspension of the negotiations has created a serious obstacle to the decolonization of Gibraltar and urge it to resume negotiations without delay.

"My Government trusts that you will realize the importance we attach to this, because we hope thus to implement resolution 2231 (XXI) and at last really set in motion the promised decolonization of Gibraltar."

10. In a letter dated 21 April 1967, the Permanent Representative of the United Kingdom to the United Nations transmitted to the Secretary-General a statement concerning the British airfield at Gibraltar and the Order of the Spanish Government establishing a prohibited zone for air navigation in the immediate vicinity of Gibraltar.^{c/}

11. In a letter dated 15 May 1967, the Secretary-General transmitted to the Permanent Representative of the United Kingdom a copy of the letter from the Permanent Representative of Spain dated 18 April 1967 and invited the views of the United Kingdom Government regarding the representations contained in it. In his letter, the Secretary-General reiterated his readiness to extend appropriate assistance in the implementation of General Assembly resolution 2231 (XXI).

12. In a letter dated 15 May 1967, the Secretary-General informed the Permanent Representative of Spain that he had invited the views of the Government of the United Kingdom regarding the representations contained in the Permanent Representative's letter of 18 April 1967. In his letter, the Secretary-General reiterated his readiness to extend appropriate assistance in the implementation of General Assembly resolution 2231 (XXI).

13. On 19 May 1967, the Permanent Representative of Spain addressed to the Secretary-General the following communication:

^{c/} At the request of the United Kingdom Permanent Representative, the letter and its annex were circulated to all Permanent Missions of the States Members of the United Nations in a note verbale from the Secretary-General dated 1 May 1967.

"In my letter of 20 April, I informed you that the United Kingdom had adjourned the negotiations for the decolonization of Gibraltar sine die. The United Kingdom Government used as a pretext for this adjournment the establishment by Spain of a prohibited area for air navigation in Algeciras and asked the Council of ICAO to recommend to my Government the postponement of the entry into force of this prohibition.

"The Council of ICAO considered the United Kingdom complaint on 10, 11 and 13 May 1967 and decided to take no action on it. I have the honour to transmit herewith a summary of the discussions held on the aforesaid dates.

"Consequently, Algeciras duly became a prohibited area on 15 May, and my Government sent the United Kingdom Government a note verbale, dated 17 May, which I also have the honour to transmit herewith with the request that the present letter and its annexes should be circulated as working documents. d/

"Spain is willing to continue without any delay the negotiations for the decolonization of Gibraltar recommended in United Nations General Assembly resolution 2231 (XXI) and again requests you to remind the United Kingdom of its obligation to comply with this resolution."

14. In a letter dated 5 June 1967, the Permanent Representative of Spain to the United Nations transmitted to the Secretary-General a copy of a note verbale dated 3 June 1967 from the Spanish Minister of Foreign Affairs addressed to the United Kingdom Embassy in Madrid concerning a violation of the prohibited area of Algeciras by British military aircraft.^{e/}

15. In a letter dated 13 June 1967, the Permanent Representative of the United Kingdom addressed the following reply to the Secretary-General's letter dated 15 May 1967:

"I have the honour to refer to Your Excellency's letter No. TR 300 GIBR of 15 May 1967, with which was transmitted a copy of a letter dated 18 April 1967, addressed to you by His Excellency the Permanent Representative of Spain.

d/ At the request of the Permanent Representative of Spain, the letter and its annexes were circulated to all Permanent Missions of the States Members of the United Nations in a note verbale from the Secretary-General dated 22 May 1967.

e/ At the request of the Permanent Representative of Spain, the letter and its annexes were circulated to all Permanent Missions of the States Members of the United Nations in a note verbale from the Secretary-General dated 6 June 1967.

"The suggestion in Mr. Aznar's letter that Her Majesty's Government has created 'obstacles ... during the course of the negotiations between Spain and the United Kingdom' is a distortion of the facts. Rather it has been the Spanish Government which, by its declaration of a prohibited area relating to flying near Gibraltar on 12 April, has created such obstacles. This action was announced only six days before the Anglo-Spanish talks were due to open, upon the invitation of my Government, and thereby recalls in timing and evident intent the Spanish announcement of 5 October 1966, about the closure of Gibraltar's land frontier to vehicular traffic.

"The Spanish Government again criticizes the United Kingdom proposal that the legal issues in dispute over Gibraltar should be submitted to the International Court of Justice. But it was the Spanish Government which, in 1966, put forward a large volume of argument of a legal nature in support of its case over Gibraltar. My Government's proposal for a reference to the International Court of Justice was therefore not only in accordance with the United Nations Charter and General Assembly resolution 171 (II) but also an appropriate response to the case put forward by the Spanish Government.

"I now wish to inform you that Her Majesty's Government, far from wishing to delay the fulfilment of the purposes of General Assembly resolution 2231 (XXI), have reached a decision which will assist and expedite this process. The decision is to hold a referendum at Gibraltar. The nature of the referendum, the background against which it will take place and the arrangements contemplated for it are all set out in the enclosed statement.

"In reaching this decision my Government have had special regard to Article 73 of the United Nations Charter which expresses the principle that the interests of the inhabitants of a Non-Self-Governing Territory are paramount.

"Also they are acting in full accordance with the purposes of General Assembly resolution 2231 (XXI) which, as you will recall, called on the two parties to continue their negotiations, 'taking into account the interests of the people of the Territory' and asked Her Majesty's Government to 'expedite the process of decolonization'.

"The position as regards consultation with Spain is explained in paragraph 3 of the statement. Although it has not yet been feasible in the circumstances there described to hold talks on the decolonization of Gibraltar with the Spanish Government, my Government are currently informing the Spanish Government of their decision to hold a referendum and inviting them to make any suggestions which they may think fit on the formulation of Alternative 'A' in the referendum, and to explain more fully to the Gibraltarians the Spanish proposals for the incorporation of Gibraltar into Spain.

"In your letter of 15 May you were kind enough to state your readiness to extend appropriate assistance in the implementation of General Assembly resolution 2231 (XXI). My Government would much welcome the presence of any observer whom you might wish to send to Gibraltar for the referendum."

16. The text of the statement on Gibraltar enclosed with the letter dated 13 June from the Permanent Representative of the United Kingdom (para. 15) reads as follows:

"On 20 December 1966, the General Assembly of the United Nations adopted resolution 2231 (XXI), calling upon Britain and Spain to continue their negotiations about Gibraltar, taking into account the interests of the people of Gibraltar and asking Britain, in consultation with Spain, to expedite the decolonization of Gibraltar. Both Spain and Britain voted for this resolution. In explaining why Britain had voted for it, the United Kingdom Permanent Representative at the United Nations said that Britain could never agree that decolonization would mean the incorporation of Gibraltar into Spain against the wishes of the people, and also that nothing could prejudice the question of the type of decolonization which would best fit the circumstances of Gibraltar.

"Her Majesty's Government have been considering their policy towards Gibraltar in the light of the resolution. In doing so they have regard to the relevant provisions of the Charter of the United Nations, in particular Article 73 which expressed the principle that the interests of the inhabitants of a Non-Self-Governing Territory are paramount. They have also had regard to their obligations under the Treaty of Utrecht.

"As is known, Her Majesty's Government duly arranged to hold talks with the Spanish Government in pursuance of the United Nations resolution. The first meeting between delegations of the two countries was to have taken place in London in April. Her Majesty's Government greatly deplore the action of the Spanish Government in announcing, on the eve of the talks, a prohibited area to flying in the vicinity of Gibraltar. This new restriction was plainly aimed against the economy of Gibraltar. Such action was in clear conflict with the terms of the General Assembly's resolution, which regretted the occurrence of acts which had prejudiced the progress of the previous Anglo-Spanish negotiations. The talks were postponed in order to enable Her Majesty's Government to consider the new situation. Her Majesty's Government raised the matter in the International Civil Aviation Organization (ICAO) and have also attempted to resolve the problem in bilateral talks with the Spanish Government. But these talks ended in failure on 8 June, and Her Majesty's Government have therefore taken steps to bring the matter before the Council of ICAO once more, this time as a dispute under article 84 of the Chicago Convention.

"But Her Majesty's Government have not been deterred by the difficulties which Spain has made over the holding of talks from pursuing the objectives of the United Nations resolution.

/...

"Her Majesty's Government firmly believe that decolonization cannot consist in the transfer of one population, however small, to the rule of another country, without regard to their own opinions and interests. Her Majesty's Government therefore think that the next step in pursuance of the United Nations resolution should be to give the people of Gibraltar an opportunity to express their views, by a formal and deliberate act on what would best serve their interests.

"Her Majesty's Government have accordingly decided that a referendum should be held in Gibraltar in which the people of Gibraltar should be invited to say which of the following alternative courses would best serve their interests:

"(a) to pass under Spanish sovereignty in accordance with the terms proposed by the Spanish Government to Her Majesty's Government on 18 May 1966; or

"(b) voluntarily to retain their link with Britain, with democratic local institutions and with Britain retaining its present responsibilities.

"If the majority of the people of Gibraltar vote in favour of the first alternative, Her Majesty's Government will be ready to enter into negotiations with the Spanish Government accordingly.

"If the majority of the people of Gibraltar vote in favour of the second alternative, Her Majesty's Government will regard this choice as constituting, in the circumstances of Gibraltar, a free and voluntary relationship of the people of Gibraltar with Britain. Her Majesty's Government will thereafter discuss with the representatives of the people of Gibraltar any appropriate constitutional changes which may be desired.

"If the majority vote for the second alternative, provision would also be made for the people of Gibraltar to retain the right at any future time to express by a free and democratic choice the desire to modify their status by joining with Spain, in which event Her Majesty's Government would be ready to approach the Spanish Government accordingly.

"Her Majesty's Government attach great importance to the referendum being held impartially. They wish the people of Gibraltar to be able to think calmly where their interests lie and to express their choice free from pressures of any kind. They would greatly welcome the presence of any observer whom the Secretary-General of the United Nations might wish to nominate for the referendum. They are ready to welcome an observer from Spain too and to give the Spanish Government facilities to explain their own proposals to the people of Gibraltar if they so wish. Her Majesty's Government also have in mind to invite observers from one or two other Commonwealth countries.

"It is Her Majesty's Government's intention to hold this referendum in the course of this year and as soon as suitable arrangements have been made for the registration of persons entitled to vote. These arrangements will necessarily take some time and Her Majesty's Government's present expectation is that the referendum will be held early in September."

17. In a letter dated 19 June 1967, the Secretary-General informed the Permanent Representative of the United Kingdom to the United Nations that he was inviting the views of the Government of Spain on the proposals contained in his letter of 13 July 1967 and would communicate further with him when the views of that Government were available.

18. In a letter of the same date, the Secretary-General transmitted to the Permanent Representative of Spain a copy of the United Kingdom representative's letter dated 13 June 1967 and invited the views of the Government of Spain on the proposals contained in that letter.

19. In a letter dated 19 June 1967, the Permanent Representative of Spain transmitted to the Secretary-General a copy of a note verbale from the Spanish Ministry of Foreign Affairs to the British Embassy in Madrid, concerning three violations of the prohibited zone of Algeciras by British military aircraft.^{f/} In the same letter the Permanent Representative of Spain referred to the Anglo-Spanish talks held in Madrid from 5 to 8 June 1967 stating:

"I take this opportunity to inform you that on 5 June discussions between Spain and the United Kingdom opened in Madrid, at the request of the United Kingdom, to consider the possible effect on the operation of Gibraltar airport of the establishment of the prohibited area of Algeciras by the Spanish Government on 12 April, which I reported to you on 17 April.

"At these discussions, which ended on 8 June, the United Kingdom requested the assistance of Spain in ensuring the normal operation of the airport of Gibraltar, giving as a pretext for its request a desire to protect civil aviation. Yet on 5 June two United Kingdom fighter aircraft stationed in Gibraltar violated Spanish air space adjacent to the Rock by flying over the prohibited area.

"The Spanish Government expressed its agreement to the establishment of a practical system to permit the normal operation of the airport of Gibraltar, provided that it was purely civilian in nature.

"The United Kingdom, determined not to sacrifice its military requirements - which, in the final analysis, are what it is defending in Gibraltar and what keeps it there - refused even to consider the Spanish proposal, announcing that it would refer the matter again to the Council of ICAO, under article 84 of the Chicago Convention."

^{f/} At the request of the Permanent Representative of Spain, the text of this letter was circulated to all Permanent Missions of the States Members of the United Nations in a note verbale from the Secretary-General dated 29 June 1967.

20. In a letter dated 22 June 1967, the Permanent Representative of Spain to the United Nations, transmitted to the Secretary-General a photocopy of a note verbale dated 20 June 1967 from the Spanish Ministry of Foreign Affairs to the United Kingdom Ambassador in Madrid concerning eight new violations of the prohibited area of Algeciras.^{g/}

21. In a letter dated 5 July 1967, the Permanent Representative of Spain to the United Nations transmitted the following reply to the Secretary-General's letter of 19 June 1967:

"... I would inform you that the Spanish Government has delivered to Her Britannic Majesty's Government an aide-mémoire stating its views on the proposed referendum which the United Kingdom intends to hold in Gibraltar in September next. I am forwarding to you herewith a copy of the Spanish aide-mémoire with the request that it should, together with this letter, be circulated as a working document and taken into account and reproduced in the report which it is your intention to make to the Committee of Twenty-Four on developments in Gibraltar subsequent to the adoption of resolution 2231 (XXI) by the General Assembly.

"1. As you will be able to confirm, Her Britannic Majesty's Government, after breaking off the Spanish-British negotiations recommended by the General Assembly of the United Nations, has decided to hold a referendum in Gibraltar without first consulting the Spanish Government, thus contravening resolution 2231 (XXI), paragraph 2.

"Furthermore, the questions to be put in the referendum, by their essence, violate resolution 2231 (XXI) and earlier resolutions on this subject, in that they imply that the application or non-application to Gibraltar of resolution 1514 (XV), already decided upon by the United Nations, is subject to the wishes of the British civilian inhabitants of the Rock. The decisions of the General Assembly in this connexion are very clear. The colonial situation in Gibraltar must be liquidated by the United Kingdom in consultation and negotiation with Spain, the country which is the victim of this colonial situation, simply taking into account the interests of the inhabitants of the Rock, which the Spanish Government has always been willing to respect.

"The Spanish Government has given many proofs that it is favourably disposed towards the interests of the inhabitants of the Rock. I may remind you that on 18 May 1966 Spain proposed to the United Kingdom the conclusion, inter alia, of an agreement to be registered with the

^{g/} At the request of the Permanent Representative of Spain, the text of this letter was circulated to all Permanent Missions of the States Members of the United Nations in a note verbale from the Secretary-General dated 29 June 1967.

United Nations, under which the inhabitants of Gibraltar would be guaranteed the maintenance of their British nationality, of their individual rights - freedom of religion, freedom of the Press, security of domicile, security of tenure of their employment, and so forth - and of their municipal collective institutions.

"As Her Britannic Majesty's Government did not accept this offer and in its negotiations with the Spanish Government made no mention whatever of the interests of the Gibraltarians, the representative of Spain in the Fourth Committee of the General Assembly proposed to the United Kingdom, on 14 December 1966, the immediate negotiation of a statute which would protect the interests of the Gibraltarians, as a step preliminary to the application to Gibraltar of resolution 1514 (XV).

"Her Britannic Majesty's Government, without replying to this proposal, now takes the unilateral decision to hold a referendum in Gibraltar in which the Gibraltarians will ostensibly be voting on whether or not resolution 1514 (XV) applies to the Territory, when the fact that this resolution does so apply has been decided by the United Nations. In these circumstances, it would be improper for the United Nations to send observers.

"2. The Spanish Government believes that it is your responsibility to oversee the implementation of resolution 2231 (XXI), which the United Kingdom has violated by breaking off the Spanish-British negotiations and deciding to arrange a referendum in the terms described in the United Kingdom document of 14 June 1967, which was forwarded to you by the representative of the United Kingdom. My Government therefore requests you to secure compliance with resolution 2231 (XXI).

"3. I would also request you to inform the Committee of Twenty-Four that the Spanish Government does not agree to the referendum which is planned by the United Kingdom and does not concede any validity to the results of it.

"Spain, in its reply to the United Kingdom, suggests a formula whereby the negotiations would continue and the two countries would jointly ascertain what were the true interests of the Gibraltarians which should be protected at the conclusion of the process of decolonization.

"4. Finally, I wish to inform you that the reasons given by Her Majesty's Government for breaking off its talks with my Government are invalid. The fact that the complaint which the United Kingdom believes it has with respect to the prohibited area for air traffic, established by Spain on 12 April, is to be submitted by the United Kingdom itself to ICAO shows that Spain's decision to prohibit the flight of military and civil aircraft over a part of Spanish territory has nothing to do with the decolonization of Gibraltar."

22. The text of the memorandum enclosed with the letter dated 5 July 1967 from the Permanent Representative of Spain reads as follows:

"1. Her Britannic Majesty's Government, in a document dated 14 June 1967, informed the Spanish Government of its decision to hold a referendum in Gibraltar, in which the civilian inhabitants of the Rock will be asked to decide:

"(a) Whether they wish to pass under Spanish sovereignty in accordance with the terms of the proposals made by the Spanish Government on 18 May 1966, or

"(b) Whether they wish to retain their link to the United Kingdom, with local democratic institutions and with the United Kingdom retaining its responsibilities in Gibraltar.

"These responsibilities, in the view of Her Britannic Majesty's Government, derive not only from the Charter of the United Nations, but also from the Treaty of Utrecht.

"In reply to the communication in question, the Spanish Government wishes to make the following observations:

"2. The United Kingdom's decision to hold a referendum in Gibraltar in the manner proposed is a violation of both the letter and the spirit of General Assembly resolution 2231 (XXI) and of earlier resolutions on this subject.

"It contravenes the letter of the recommendations of the United Nations, since it was taken at a time when, by decision of the United Kingdom, the Spanish-British negotiations were in abeyance, and without there having been any prior consultation with the Spanish Government or with the United Nations itself. The mere fact of being advised of the measure after it has been taken does not, in the view of the Spanish Government, constitute consultation by Her Britannic Majesty's Government. The offer to Spain to send an observer to watch the referendum and explain its views to the inhabitants of Gibraltar is quite unacceptable, since it would imply the Spanish Government's approval of a unilateral decision by the United Kingdom that is contrary to the rights and interests of Spain and to the decisions taken by the United Nations.

"3. The United Nations has recommended that the decolonization of Gibraltar should be effected through the application to this Territory of resolution 1514 (XV) in its entirety, and consequently of paragraph 6 thereof, which states that 'any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations'. Furthermore, it was recommended to Spain and the United Kingdom that, in the negotiations aimed at resolving the colonial situation in Gibraltar by

mutual agreement, account should be taken of the interests of the inhabitants of the Rock, whose right of self-determination - since they did not fulfil the requisite conditions - had not been recognized by the United Nations, despite the express request made to the Committee of Twenty-Four in 1963 and 1964 and to the Fourth Committee in 1966 by the petitioners representing them.

"In its proposal of 14 June 1967, the United Kingdom appears to be pursuing the same aims and policies as in April 1964, when it granted to Gibraltar the Lansdowne Constitution - namely, to ensure the British presence on the Rock and to use the inhabitants as a screen for its military interests.

"Such a policy has already been rejected by the United Nations. In October 1964, the Committee of Twenty-Four recommended that the decolonization of Gibraltar should be achieved by negotiation between the United Kingdom, as the colonial Power, and Spain, as the country a part of whose territory was colonized.

"Now, in 1967, the United Kingdom, persistently disregarding not only the political decisions of the United Nations but also the present legal status of the Rock, is taking a further, and the most serious, step in Gibraltar. Under resolution 2231 (XXI), it is not for the United Kingdom independently to consult the wishes of the Gibraltarians; it is for Spain and the United Kingdom to negotiate together, taking into account the interests of the Gibraltarians.

"4. The questions to be put in the proposed referendum also contravene the spirit of the recommendation of the United Nations on the manner in which the colonial situation in Gibraltar should be terminated.

"To ask the Gibraltarians whether they wish 'Great Britain to retain her responsibilities in Gibraltar' is tantamount to asking them whether they want the present colonial situation, which has been specifically and expressly condemned by the United Nations, to continue. This is an attempt to saddle them with the responsibility for the perpetuation of that situation, so that they - and not the United Kingdom - will appear to be the cause of the halt in the decolonization process.

"Again, to ask the Gibraltarians whether they wish to pass under Spanish sovereignty in accordance with the terms of the proposals made by Spain on 18 May 1966 is tantamount to leaving it to them to decide whether or not resolution 1514 (XV) should apply to the colonial case of Gibraltar - a matter which has already been decided by the United Nations. What is more, the Spanish Government, in its 1966 proposals, never envisaged that the Gibraltarians, individually or collectively, should be compelled to abandon either their status as subjects of Her Britannic Majesty or the Territory of Gibraltar. The sole purpose was that the Territory should be returned to Spain in a civilized manner through the application to it of resolution 1514 (XV), thus ending the dismemberment of Spain's national unity and

territorial integrity. In order that this return of the Rock to Spain might be effected peacefully and to the benefit of all concerned, the Spanish proposals suggested the conclusion of certain agreements to prevent the decolonization from adversely affecting the interests of either the Gibraltarians or the United Kingdom.

"In the final analysis, the putting of these two questions means conferring on the civilian inhabitants of the Rock the responsibility for deciding, through their preference for one sovereignty or the other, whether or not the Territory they inhabit should be returned to Spain. This manoeuvre involves a clear violation - the most serious and decisive yet - of the present legal status, as laid down in article X of the Treaty of Utrecht, which unequivocally gives Spain a prior claim to recover Gibraltar in any circumstances where British sovereignty may cease, if only for a moment.

"5. The measure adopted by the United Kingdom on 14 June 1967 has nothing to do with the decolonization of Gibraltar. The decolonization advocated by the United Nations is not one which maintains privileged positions at the expense of the natural populations but, on the contrary, one which eliminates imperialism and unjust situations.

"The Spanish Government believes that, as a result of the United Nations debates in which the process of decolonizing the Territory of Gibraltar was initiated, the civilian inhabitants of the Rock included in the roll of Gibraltarians were defined as having certain interests that ought not to be adversely affected by the termination of the colonial situation. These inhabitants replaced the true population of Gibraltar, which was expelled by England in 1704 and settled in the town of San Roque del Campo de Gibraltar, where its descendants still reside. Their interests, which have been stated to the Committee of Twenty-four by their legitimate representatives, cannot be left out of account in the decolonizing process; for the fact is that the word 'Gibraltarians' means not only the British subjects established at the United Kingdom military base and subject to the jurisdiction of a fortress that is British because of the cession of sovereignty made by Spain, and not because it is the home of subjects of the United Kingdom, but also those dispossessed inhabitants and the 5,000 Spanish workers and their families who constitute a substantial proportion of the Rock's labour force and therefore of the life of Gibraltar. These Gibraltarian workers, who are prohibited by discriminatory, colonialist legislation from residing in Gibraltar, should also be remembered in the decolonization process. Thirty-two million Spaniards are also affected by the perpetuation of the colonial situation at Gibraltar, and their rights, their interests and their security are ignored by Her Britannic Majesty's Government in the document of 14 June 1967.

"Article 75 of the Charter of the United Nations is completely misconstrued by the United Kingdom when it offers this referendum to the British civilian population included in the roll of Gibraltarians. It is true that this Article states that the interests of a people subjected to

colonial domination are paramount, but in the case of Gibraltar what has been colonized is not a Gibraltarian population composed of British subjects, but a Spanish territory and Spaniards.

"6. The referendum which the United Kingdom proposes to hold is obviously based on the totally inadmissible premise that the interests of the Gibraltarians include that of deciding whether or not resolution 1514 (XV) should apply to Gibraltar. The Spanish Government holds the view that the inhabitants of Gibraltar should have the opportunity to inform Spain and the United Kingdom what their true interests are, in order that they may be safeguarded by the two countries to which the United Nations has entrusted this responsibility. However, these interests do not include the right to dispose of a piece of territory which must revert to Spain if the colonial situation in Gibraltar is to be truly ended.

"During the year which has elapsed since 18 May 1966, Her Britannic Majesty's Government, in its talks with the Spanish Government, has systematically avoided specifying what the interests of the Gibraltarians are and has not replied to the Spanish proposal of 13 December 1966, suggesting the immediate negotiation of a statute to protect those interests.

"The Spanish Government is therefore of the opinion that it is only within the framework of the Spanish-British negotiations that agreement can be reached on such a procedure as will enable Spain and the United Kingdom jointly to establish what are the interests that the inhabitants of Gibraltar wish to see protected at the conclusion of the process of decolonization. To this end, the formula proposed by Her Britannic Majesty's Government in its document of 14 June 1967 should be replaced by another compatible with the decisions adopted by the United Nations.

"If Her Majesty's Government carries out its unilateral decision of 14 June 1967, it will have chosen a course contrary to that indicated by the United Nations, with all its attendant consequences. The Spanish Government will then have no further obligation towards Gibraltar, since the United Kingdom will have violated article X of the Treaty of Utrecht if, as a result of the manifestation of the wishes of the civilian population, the matter of sovereignty becomes open to question. In this event, the devolution clause of article X

of the Treaty of Utrecht would become operative. Thereafter, and until such time as this clause is brought into full effect, Gibraltar can only be for Spain a piece of Spanish territory illegally occupied by 18,000 aliens supported by the military force of the United Kingdom."

23. On 7 July 1967, the Permanent Representative of the United Kingdom to the United Nations addressed a letter to the Secretary-General in which were contained the views of his Government concerning the matters raised in the letters addressed to the Secretary-General by the Permanent Representative of Spain on 19 May, 5 June, 19 June and 22 June 1967 (see paras. 13, 14, 19 and 20 above). Extracts from the letter of the Permanent Representative of the United Kingdom are reproduced below:^{h/}

"I have the honour to enclose a memorandum giving a balanced account of the ICAO Council's proceedings from 10 to 13 May and of the bilateral talks about the prohibited area between Britain and Spain which took place in Madrid from 5 to 8 June. I also enclose a copy of Her Majesty's Government's note No. 146 of 18 May which replied to the Spanish note No. 115 and explained the reasons for the postponement of the talks which had been due to start on 18 April.

"The Spanish notes Nos. 131, 142 and 146 contained allegations about flights by British military aircraft. I am authorized to say that the British authorities have investigated these allegations and that my Government is satisfied that on none of the occasions cited was there any infringement of Spanish rights. When formal replies are made to the Spanish allegations, copies will be communicated to you.

"Sr. Aznar's letter of 19 June gives a misleading account of the Spanish attitude during the bilateral talks in Madrid about the prohibited area from 5 to 8 June. As you will see from the first annex to this letter, Spain did not agree to establish a system to permit normal airport operations provided that it was purely civilian in nature. Rather the Spanish delegation refused to go on talking about aeronautical matters which the British delegation had gone to Madrid to discuss unless Britain first made far-reaching concessions in the political field. The first of these conditions was that Britain should

^{h/} At the request of the Permanent Representative of the United Kingdom, the text of this letter and its annexes were circulated to all Permanent Missions of the States Members of the United Nations in a note verbale from the Secretary-General dated 11 July 1967.

agree to acknowledge Spanish sovereignty over the territory on which the airport is situated. The imposition of such an extreme (and, as the Spanish Government well knew, unacceptable) pre-condition for even continuing the discussions brought the talks to a premature and regrettable end."

24. In a letter dated 17 July 1967, the Secretary-General addressed the following communication to the Permanent Representative of the United Kingdom:

"I have the honour to refer to your letter dated 13 June 1967 in which you conveyed to me, inter alia, the decision of your Government to hold a referendum in Gibraltar on the basis set out in the enclosed statement, and informed me that your Government would welcome the presence of any observer whom I might wish to send there for the referendum.

"As you will recall, I stated, in my letter dated 19 June 1967, that I was inviting the views of the Government of Spain regarding the proposals contained in your letter and would communicate with you further when those views were available. I now transmit herewith for the information of your Government, a copy of a letter dated 5 July 1967 from the Permanent Representative of Spain to the United Nations, in which are contained the views of the Government of Spain.

"Taking into account the differences of view between your Government and the Government of Spain as expressed during the current exchange of correspondence concerning the question, and having regard to the provisions of General Assembly resolution 2231 (XXI), I intend to submit a report on the whole matter to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples."

25. In a letter dated 4 August 1967 the Deputy Permanent Representative of the United Kingdom wrote to the Secretary-General in reply to his letter of 17 July 1967 (see para. 24 above). The text of the letter and its enclosures are as follows:

"I have the honour to acknowledge your letter No. TR 300 GIBR of 17 July 1967, with which were enclosed a letter and an aide-mémoire from His Excellency the Permanent Representative of Spain about the referendum which is to be held in Gibraltar on 10 September 1967.

"I now have the honour to enclose the text of an aide-mémoire communicated by my Government to His Excellency the Ambassador of Spain in London on 31 July 1967.

"Since this is directly relevant to the exchange of correspondence concerning the forthcoming referendum incorporated in Your Excellency's report of 17 July 1967 to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (A/AC.109/254), I should be grateful if you would arrange for this letter and its enclosure also to be circulated in a documentary form to members of the Special Committee."

I

Text of British aide-mémoire communicated to the
Spanish Ambassador in London on 21 July 1967 in
reply to the Spanish aide-mémoire of 3 July 1967

"Her Majesty's Government regret that the Spanish Government has adopted a critical attitude towards their decision to hold a referendum at Gibraltar. They also note with regret the Spanish Government's refusal to accept their invitation to send a Spanish observer to follow the progress of the referendum and their offer to provide facilities to enable the Spanish Government to explain their proposals to the people of Gibraltar.

"2. Her Majesty's Government repeat that, as they have already explained, the referendum is the next step in pursuance of United Nations resolution 2231 (XXI). The referendum will not, as the Spanish Government suggests, violate either United Nations resolutions on decolonization in general or United Nations resolutions specifically concerning Gibraltar.

"3. On the contrary, Her Majesty's Government's decision to hold a referendum is in full accordance with the spirit and letter of Article 73 of the United Nations Charter which lays down the responsibilities of Members of the United Nations towards Non-Self-Governing Territories for which they have responsibility. Gibraltar is such a Territory and therefore, according to Article 73, Britain is under an obligation to recognize the principle

that the interests of its inhabitants are paramount. The referendum will give the Gibraltarians an opportunity to express, by a formal and deliberate act, their views as to where their interests lie. It is essential to ascertain these views since it would clearly be wrong for either Britain or Spain to determine arbitrarily, without reference to the people, where their interests lie. And in May 1966 (during the Anglo-Spanish talks about Gibraltar), the Spanish Foreign Minister himself said:

'No one better than the inhabitants themselves could explain their needs to Spain through the British Government that represents them.'

It is surprising, therefore, that the Spanish Government should now fail to support the British decision to consult these same inhabitants by means of a referendum.

"4. The Spanish aide-mémoire of 3 July invokes United Nations resolution 1514 (XV). But this invocation is based on one paragraph only of that resolution, a paragraph which is not in any case relevant to the situation in Gibraltar. It thus gives an incomplete and misleading interpretation both of the resolution and of its application to Gibraltar. The asserted relevance of paragraph 6 of resolution 1514 (XV) presupposes, on Spain's interpretation of the paragraph, that Gibraltar is part of Spain - a disputed point. If the Spaniards draw legal inferences from this, we are ready to test such contentions in the highest judicial organ of the United Nations, but Spain refuses. Until Spain agrees to settle this crucial point by reference to the International Court of Justice, it cannot be argued that paragraph 6 of resolution 1514 is relevant to Gibraltar.

"5. The Spanish Government appears to have misunderstood the nature of the referendum since it apparently supposes that its being held will signify the lapse, either permanent or temporary, of British sovereignty over Gibraltar. What will in fact happen will be that the people of Gibraltar will express their views as to where their interests lie, in the knowledge that if they express the view that their interests lie in passing under Spanish sovereignty the British Government will negotiate with Spain to bring this about. This expression of views involves no lapse in British sovereignty and therefore does not bring into operation the clause of article X of the Treaty of Utrecht under which Spain has a reversionary right to sovereignty over Gibraltar should British sovereignty be terminated.

"6. Article 73 of the United Nations Charter quite clearly refers to the interests of the 'inhabitants of non-self-governing territories', the United Nations Special Committee of Twenty-Four Consensus of 16 October 1964 refers to the interests of the 'population of the territory' and United Nations resolution 2231 (XXI) refers to the interests of the 'people of the territory'. It is therefore clear beyond any doubt that the United Nations Charter and the later Consensus and resolution on Gibraltar are concerned specifically with the interests of the people living in the Non-Self-Governing Territory

/...

of Gibraltar. These are the people whose interests, according to the United Nations Charter, must be paramount and these are the people who will be consulted about their interests in the forthcoming referendum. The Spanish claim that the term 'Gibraltarian' covers a wider category of people than the inhabitants of Gibraltar itself is not supported by the Charter, the Consensus or the resolutions, and it is thus not relevant to the question of the application of United Nations resolutions to Gibraltar.

"7. The Spanish Government criticizes the formula by which Her Majesty's Government propose to consult the Gibraltarians about where they judge their interests to lie. It is regretted that the Spanish Government did not avail itself of the opportunity offered it by Her Majesty's Government to comment on the formulation of the alternatives by which the people of Gibraltar would pass under Spanish sovereignty in accordance with the terms proposed by the Spanish Government to Her Majesty's Government on 18 May 1966, and it is disappointing that the Spanish Government have put forward no alternative formula. The existing formula therefore stands. But Her Majesty's Government hope that, in the light of the clarification of the purposes and consequences of the referendum contained in the above paragraphs, the Spanish Government will now decide to accept Her Majesty's Government's invitation to send an observer to the referendum and to take up Her Majesty's Government's offer to make facilities available to the Spanish Government to explain their proposals to the Gibraltarians."

26. By a letter dated 15 August 1967 the Deputy Permanent Representative of the United Kingdom transmitted to the Secretary-General additional information which was promised in his letter of 7 July (see para. 23 above). The text of this letter and its enclosures are as follows:

"I have the honour to refer to paragraph 3 of my note No. 110 of 7 July 1967, about Gibraltar, in which I undertook to communicate to you my Government's formal replies to the allegations contained in notes Nos. 131, 142 and 146 from the Government of Spain addressed to Her Majesty's Embassy at Madrid concerning flights by British military aircraft.

"I now have the honour to enclose copies of the notes delivered by Her Majesty's Embassy at Madrid on 22 July, 28 July and 11 August 1967, in reply to these communications from the Spanish Government."

I

United Kingdom Government's reply dated 22 July 1967
to Spanish Government note No. 131

"Her Majesty's Embassy presents its compliments to the Ministry of Foreign Affairs and in reply to the Ministry's note No. 131 of 3 June and the statement made by Sr. Sedo, Leader of the Spanish Delegation at the Anglo-Spanish talks in Madrid on 7 June, has the honour to state the following.

/...

"In the note it was alleged that on 26 May a formation of two Hunter aircraft of the Royal Air Force violated Spanish air space. This note was accompanied by a radar plan position map showing the tracks of three aircraft.

"In the statement of Sr. Sedo it was alleged that on 1 June a Valletta aircraft of the Royal Air Force violated Spanish air space.

"These two allegations have been carefully examined. As a result of these investigations Her Majesty's Government are satisfied that the aircraft in question followed the established procedures and that no Spanish rights were infringed on either occasion.

"But Her Majesty's Embassy are instructed to take this opportunity to express the regret of Her Majesty's Government for an infringement of Spanish rights which took place on 2 June. On that date a Shackleton aircraft of the Royal Air Force overflowed the northern part of the isthmus not for emergency reasons but because of an error of judgement by the pilot. Although the Spanish authorities have not complained about this flight, Her Majesty's Government wish them to be aware of what happened."

II

United Kingdom Government's reply dated 28 July 1967 to Spanish Government note No. 142

"Her Majesty's Embassy presents its compliments to the Ministry of Foreign Affairs and in reply to the Ministry's note No. 142 of 15 June about the alleged violations of Spanish air space by British military aircraft on 2, 5 and 6 June, has the honour to state the following.

"All these allegations have been carefully examined. As a result of these investigations Her Majesty's Government are satisfied that the aircraft in question followed the established procedures and that no Spanish rights were violated on any of these occasions.

"Her Majesty's Embassy is instructed to state that the British military authorities have carefully examined the photographs purporting to relate to the charts attached to the Spanish Government's note. Unfortunately, it is not possible to interpret these photographs because of excessive clutter and sea returns. Secondly, because of scale distortion in setting up the radar display it is not possible to establish an accurate reference point. Lastly, two of the photographs show times other than those quoted in the Spanish charts, and do not appear to relate to the flights listed in the Ministry's note."

III

United Kingdom Government's reply dated 11 August 1967
to Spanish Government note No. 146

"Her Majesty's Embassy presents its compliments to the Ministry of Foreign Affairs and in reply to the Ministry's note No. 146 of 20 June about eight alleged violations of Spanish air space by British military aircraft on 7, 8 and 9 June, has the honour to state the following.

"All these allegations have been carefully examined. As a result of these investigations, Her Majesty's Government are satisfied that the aircraft in question followed the established procedures and that no Spanish rights were violated on any of these occasions.

"Her Majesty's Embassy is instructed to state that the British military authorities have carefully examined the photographs purporting to relate to the charts attached to the Spanish Government's note. Unfortunately in three cases no aircraft trace is visible. For the rest, the aircraft traces are in general indistinct and are not related to any clearly identifiable reference points."

27. By letter dated 17 August 1967, the Deputy Permanent Representative of Spain wrote to the Secretary-General transmitting information supplementary to the Spanish note of 5 July 1967 (see paras. 21 and 22 above). The text of this communication and its enclosure follows:

"As a supplement to our note No. 121 of 5 July on the question of Gibraltar, I have the honour to transmit to you herewith the memorandum dated 14 August 1967 sent to Her Britannic Majesty's Embassy at Madrid in reply to the aide-mémoire addressed to the Spanish Government by the Secretary of State for Foreign Affairs of the United Kingdom on 31 July 1967.

"I should be grateful if you would have this note and the memorandum circulated as a working document to all delegations and issued as an addendum to document A/AC.109/254 containing your report to the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples."

I

MEMORANDUM

"1. Having studied the aide-mémoire of Her Britannic Majesty's Government of 31 July 1967 setting forth the views of the United Kingdom on the Gibraltar referendum and on its scope, the Spanish Government is

/...

more than ever of the opinion that the questions included in the referendum violate General Assembly resolution 2231 (XXI), the United Nations Charter and article X of the Treaty of Utrecht.

"2. The facts are as follows:

"(a) Her Britannic Majesty's Government, after unilaterally breaking off negotiations with regard to Gibraltar, has violated operative paragraph 2 of resolution 2231 (XXI) by deciding to hold the said referendum without previously consulting the Spanish Government.

"(b) The reference to Article 73 of the United Nations Charter is not pertinent. Article 73 certainly states that the interests of a people subjected to colonial domination are paramount, but what has been colonized in the case of Gibraltar - as may be seen from the last paragraph of resolution 2231 (XXI) - is not a Gibraltarian population composed of British subjects, but Spain and Spaniards.

"The interests of the inhabitants of Gibraltar cannot lie in maintaining a disruption of the national unity and territorial integrity of Spain.

"(c) The Spanish Government cannot take seriously the United Kingdom assertion that a ruling by the International Court of Justice is necessary before Gibraltar can be regarded as part of Spain.

"The Treaty of Utrecht, article X of which the United Kingdom still invokes as giving it title to Gibraltar, was signed between Spain and England. Maintenance in force of this colonial Treaty jeopardizes the national unity and territorial integrity of Spain, and represents a colonial situation on Spanish soil. It was precisely in order to do away with such situations, past or future, that paragraph 6 was included in resolution 1514 (XV); and as the Committee of Twenty-Four agreed on 16 October 1964, that paragraph must be applied to Gibraltar.

"(d) If the referendum as phrased does not presuppose for a moment the transfer of British sovereignty over Gibraltar to the British inhabitants of the Rock - as Her Majesty's Government now maintains - it is impossible to understand why those inhabitants should be asked to choose between Spanish and British sovereignty in replying to the questions put before them.

"(e) The Spanish Government reminds the Government of Her Britannic Majesty that the reason why the 5,000 Spanish workers - in earlier times 14,000 - and their families do not live on the Rock is that they have been prohibited from doing so by the British authorities under a discriminatory policy which dates far back and which is reflected in the Immigrants and Aliens Ordinance of 1885. These workers are prevented from voting in the referendum by that prohibition, and not by resolutions 2070 (XX) and 2231 (XXI).

"3. In its memorandum of 3 July 1967, the Spanish Government stated that Spain and the United Kingdom should negotiate a procedure that would enable them to establish what are the interests that the inhabitants of Gibraltar wish to see protected at the conclusion of the process of decolonization called for by the United Nations. Those interests have nothing to do with the purely British interest in maintaining sovereignty over a military base on Spanish soil, which lies behind the questions the Gibraltarians are to be asked to vote on.

"Accordingly, the Spanish Government, while confirming the statements in its memorandum of 3 July 1967, takes this opportunity once again to invite Her Britannic Majesty's Government to agree on a formula which would replace the proposed referendum and enable the two countries to ascertain what are the interests of the Gibraltarians themselves, with a view to embodying safeguards of those interests in a Spanish-United Kingdom agreement, to be registered with the United Nations.

"Such an agreement would make it possible to preserve the social, cultural, religious and economic identity of the civilian inhabitants of the Rock, protecting it from the negative features of decolonization."

ANNEX II*

QUESTION OF GIBRALTAR

LETTER DATED 6 SEPTEMBER 1967 FROM THE PERMANENT REPRESENTATIVE OF
THE UNITED KINGDOM ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to acknowledge the receipt of your letter No. TR 300 GIBR of 1 September 1967, with which was enclosed the text of the resolution of the Special Committee adopted on 1 September and expressing the majority view of members of the Special Committee on the question of Gibraltar.

The referendum, which is to take place in Gibraltar on 10 September, is in no way invalidated by this opinion of the Committee of Twenty-Four. It will give the inhabitants of the Territory an opportunity to express their views on where their own interests lie. It was decided upon by the United Kingdom Government in accordance with its powers and responsibilities as the acknowledged administering Power in Gibraltar. The right of the Administering Authority so to consult the inhabitants on a question vital to their future must be beyond dispute. Such a free and democratic consultation of the people of a Non-Self-Governing Territory about their interests is being undertaken with respect to Article 73 of the United Nations Charter under which the interests of the inhabitants are paramount.

I wish at the same time to invite attention to the recommendation contained in General Assembly resolution 2231 (XXI) that the interests of the people of Gibraltar should be taken into account, and to point out that a consultation of the people of Gibraltar about their own view of where their interests lie is fully consistent with the terms of that resolution and calculated to further its objectives. The result of the referendum will establish an important additional element required for the implementation of resolution 2231 (XXI), and my Government will consequently make its full report in accordance with the provisions of resolution 2231 (XXI) when the results of the referendum are available.

I shall be grateful if you will arrange for the circulation of this letter as a document of the Special Committee.

(Signed) CARADON

* Previously reproduced under the symbol A/AC.109/268.

ANNEX III*

LETTER DATED 25 OCTOBER 1967 FROM THE PERMANENT REPRESENTATIVE
OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND TO
THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

I have the honour to transmit, on my Government's instructions, a report on Gibraltar by the United Kingdom Government, prepared in accordance with the request in operative paragraph 2 of General Assembly resolution 2231 (XXI) of 20 December 1966.

I shall be grateful if you will arrange for this letter and the report to be forwarded to the Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, together with the reports of the Referendum Administrator and of the Commonwealth Observers on the conduct of the referendum, which are annexed to the report. I should also be grateful if you would arrange for this letter and the report to be circulated as documents both of the Special Committee and of the General Assembly. Finally, I should be grateful if you would arrange for copies of the reports of the Referendum Administrator and the Commonwealth Observers to be sent to the Permanent Representatives of all States Members of the United Nations.^{a/}

(Signed) CARADON

Report to the Special Committee on the Situation with regard
to the Implementation of the Declaration on the Granting of
Independence to Colonial Countries and Peoples

In accordance with General Assembly resolution 2231 (XXI) of 20 December 1966, on Gibraltar, the United Kingdom Government proposed to the Spanish Government that talks should start in London on 18 April. But on 12 April Spain declared a large new prohibited area for flying near Gibraltar. This prohibited area was

* Previously reproduced under symbol A/AC.109/279.

^{a/} To be forwarded under cover of a note verbale.

clearly designed to interfere with access to Gibraltar Aerodrome and its announcement caused the United Kingdom Government to postpone the talks. The reasons for this postponement were explained in the United Kingdom Permanent Representative's letter of 21 April to the Secretary-General, circulated under cover of the Secretary-General's note of 1 May 1967.

In the event, the talks which the United Kingdom Government had proposed for April were never held. Technical talks to discuss the effect of the prohibited area on flying at Gibraltar Aerodrome took place in Madrid from 5 to 8 June. But these broke down because Spain would not continue them unless Britain first agreed that the land on which the aerodrome stands is Spanish.

In the enclosure of a letter of 13 June to the Secretary-General (see annex I) the United Kingdom Permanent Representative explained the United Kingdom Government's reasons for a decision (announced in London on the following day) that a referendum should be held at Gibraltar. In this the voters were asked to indicate if they considered that it would better serve the interests of the people of Gibraltar:

(a) To pass under Spanish sovereignty in accordance with the terms proposed by the Spanish Government to Her Majesty's Government on 18 May 1966; or

(b) Voluntarily to retain their link with Britain, with democratic local institutions and with Britain retaining its present responsibilities.

The United Kingdom Permanent Representative emphasized that the referendum would represent an important step towards the fulfilment of the objectives of General Assembly resolution 2231 (XXI). He also said that the United Kingdom Government would welcome the presence of any observers the Secretary-General might wish to send to Gibraltar during the referendum proceedings.

The United Kingdom Government also expressed its readiness to welcome an observer from Spain and to give the Spanish Government facilities to explain their own proposals to the people of Gibraltar if they so wished. And before the referendum was publicly announced the United Kingdom Government had invited the Spanish Government to comment on the formulation of alternative (a) in the referendum. The Spanish Government rejected these offers.

The referendum took place on 10 September. Out of an electorate of 12,757 the number of valid votes cast was 12,182. Of these, 44 were for alternative (a) and 12,138 for alternative (b). Attached are the official report of the Referendum Administrator, Sir Robert Fowler, and the report of the four Commonwealth Observers who were present at Gibraltar for the referendum. In their report the Observers have said that they were impressed by the administrative arrangements for the referendum and considered them to be conducted in a fair and proper manner. They found that there were adequate facilities for the people in Gibraltar freely to express their views in the referendum and that these facilities were in fact used. They recorded the unanimous view that the actual conduct of the referendum fully conformed with the requirements for the free expression of choice through the medium of the secret ballot.

Meanwhile, on 1 September, the Special Committee adopted a further resolution on the question of Gibraltar. The United Kingdom representative voted against this resolution and the United Kingdom Permanent Representative's letter of 6 September to the Secretary-General (see annex II) explained the United Kingdom Government's attitude towards it.

In reply to a subsequent Spanish note of 6 September stating that the Spanish Government's main objective with regard to Gibraltar was "to remove an obstacle in the way of good relations between Spain and Great Britain" and in the light of the conversation in New York on 25 September between Her Majesty's Secretary of State for Foreign Affairs and the Spanish Foreign Minister, the United Kingdom Government proposed to the Spanish Government on 20 October that talks on Anglo-Spanish relations, including the question of Gibraltar, should begin in Madrid in the latter part of November.

ANNEX IV*

Letter dated 30 October 1967 from the Deputy Permanent
Representative of Spain to the United Nations addressed
to the Secretary-General

On 6 September 1967, the Ambassador of Spain in London delivered to the Principal Secretary of State for Foreign Affairs a note verbale reading as follows:

"The Spanish Embassy in London presents its compliments to the Foreign Office and takes pleasure in informing him of the following:

"The Secretary-General of the United Nations has brought it to the attention of the Spanish Government that on 1 September the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted the following resolution, whose text, it seems, has also been communicated to Her Britannic Majesty's Government:

'The Special Committee,

'Having examined the question of Gibraltar,

'Having heard the statements of the administering Power and the representative of Spain,

'Recalling General Assembly resolution 1514 (XV) of 14 December 1960,

'Recalling further General Assembly resolutions 2251 (XXI) of 20 December 1966 and 2070 (XX) of 16 December 1965, and the Consensus adopted on 16 October 1964 by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,

'Considering that any colonial situation which partially or totally disrupts the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations and specifically with paragraph 6 of General Assembly resolution 1514 (XV),

* Previously reproduced under the symbol A/AC.109/280; also issued under the symbol A/6882.

'1. Regrets the interruption of the negotiations which were recommended in General Assembly resolutions 2070 (XX) and 2231 (XXI);

'2. Declares that the holding by the administering Power of the envisaged referendum would contradict the provisions of resolution 2231 (XXI);

'3. Invites the Governments of the United Kingdom of Great Britain and Northern Ireland and Spain to resume without delay the negotiations provided for in General Assembly resolutions 2070 (XX) and 2231 (XXI) with a view to putting an end to the colonial situation in Gibraltar and to safeguarding the interests of the population upon the termination of that colonial situation;

'4. Requests the Secretary-General to assist the Governments of the United Kingdom and Spain in the implementation of the present resolution, and to report thereon to the General Assembly at its twenty-second session.'

"The Spanish Government is prepared to resume immediately the negotiations with Her Britannic Majesty's Government recommended by the above resolution of the Special Committee and by General Assembly resolutions 2070 (XX) and 2231 (XXI) with a view to putting an end to the colonial situation of Gibraltar, and wishes to state once again that its main objective so far as Gibraltar is concerned is to remove an obstacle to good relations between Spain and the United Kingdom and to lay the foundations for effective co-operation beneficial to both countries and to the people of Gibraltar.

"The Spanish Embassy takes this opportunity to reiterate to the Foreign Office the assurances of its highest consideration."

As you will see, the above note reflects the Spanish Government's belief that the only possible way to remove the obstacle to good relations between Spain and the United Kingdom constituted by Gibraltar is that recommended by the United Nations in the Special Committee's consensus of 16 October 1964, in General Assembly resolutions 2070 (XX) and 2231 (XXI) and in the Special Committee's resolution cited above, which explicitly denies the validity of the referendum held in Gibraltar on 10 September.

On 25 September, during a meeting held in New York, Mr. Brown, Principal Secretary of State for Foreign Affairs of the United Kingdom, informed Mr. Castiella, the Spanish Minister for Foreign Affairs, that the United Kingdom Government would reply to the Spanish note verbale of 6 September towards the end of October.

/...

On 20 October Mr. Brown delivered to the Spanish Ambassador in London, the Marquis of Santa Cruz, the following note:

"Her Majesty's Principal Secretary of State for Foreign Affairs presents his compliments to His Excellency the Spanish Ambassador and has the honour to return the following reply to the Note which the Ambassador delivered to him on the 6th of September.

"Her Majesty's Government note that in proposing further talks on Gibraltar the Spanish Government has stated that its main objective is to remove the obstacle in the way of good relations between Spain and Great Britain and to establish the basis of an effective co-operation beneficial to both countries and the people of Gibraltar.

"Her Majesty's Government welcome this statement and are prepared to hold further talks with the Spanish Government with these objectives in mind. The meeting which took place between Mr. Brown and the Spanish Minister for Foreign Affairs in New York on the 25th of September has already furnished the occasion for a useful exchange of views. Her Majesty's Government believe that this can best be followed up, in the immediate future, by a more detailed exchange between senior officials of the two Governments.

"Mr. Hohler, who led the British Delegation in the talks with Spain which took place during 1966, has been appointed Her Majesty's Ambassador in Berne and will be handing over his present responsibilities in the Foreign Office to Mr. J.G.S. Beith within the next two weeks. Mr. Beith will wish to visit certain capitals, including Madrid, very soon thereafter. Her Majesty's Government therefore propose that Mr. Beith should visit Madrid towards the end of November and should take the opportunity to begin talks on Anglo-Spanish relations, including the question of Gibraltar, with senior Spanish officials. The opening of these talks would of course be without prejudice to the legal views of either Government on that question. Arrangements for continuing the talks could be considered by the two Governments in the light of the results of this meeting."

On 28 October Mr. Castiella handed to Sir Alan Williams, Her Britannic Majesty's Ambassador in Madrid, the following Spanish reply to the most recent United Kingdom communication:

"I have the honour to inform you that the Spanish Government, having studied the United Kingdom's note No. C.S.4/29 delivered on 20 October to the Spanish Ambassador in London by the Principal Secretary of State for Foreign Affairs, has come to the conclusion that Her Britannic Majesty's Government has not replied in that document to the Spanish note of

6 September, in which the United Kingdom was requested to resume negotiations with a view to carrying out the resolution on Gibraltar adopted on 1 September by the Special Committee.

"The Spanish Government still does not know whether or not Her Britannic Majesty's Government intends to carry out all the United Nations resolutions on Gibraltar and whether or not it is prepared to begin negotiations with Spain with a view to putting an end to the colonial situation in Gibraltar. The Spanish Government would therefore be grateful to Her Britannic Majesty's Government for its prompt reply in explanation of these two points, so that it may have the information it needs to determine its position on the matter.

"The Spanish Government is glad to learn that Mr. J.G.S. Beith, Under-Secretary of State for Foreign Affairs, proposes to visit Madrid toward the end of November: it believes that talks between a senior British official and senior Spanish officials regarding the state of relations between the two countries must always be desirable and useful. However, it considers that talks such as those contemplated in the United Kingdom note of 20 October have nothing in common with negotiations designed to put an end to the colonial situation in Gibraltar as recommended by the United Nations, which would appear at present to offer the only logical and honourable basis for a constructive approach by both countries to the problem of Gibraltar.

"I take this opportunity to reiterate to Your Excellency the assurances of my highest consideration."

As you will observe, the Spanish Government welcomes the visit of a senior British official to Madrid, but it feels that the United Kingdom appears reluctant to carry out the United Nations resolutions with a view to putting an end to the colonial situation in Gibraltar, and considers that - as may be seen from the United Kingdom note of 20 October - the talks which the official in question proposes to hold in Spain have nothing in common with the decolonization of Gibraltar.

I should be grateful if you would have this letter circulated to all Members of the United Nations as a working document, a General Assembly document and a document of the Special Committee for incorporation in the section of its report relating to Gibraltar.

(Signed) Jaime de PINIES
Deputy Permanent Representative of Spain
to the United Nations
Chargé d'Affaires a.i.