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SECOND INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

Pacific Regional Seminar on the implementation of the Second  
International Decade for the Eradication of Colonialism:  
priorities for the remainder of the Decade

Bandung, Indonesia  
14 to 16 May 2008

STATEMENT

BY

THE REPRESENTATIVE OF SPAIN

## STATEMENT BY THE REPRESENTATIVE OF SPAIN

Mr. Chairman,  
Distinguished Delegates,  
Ladies and gentlemen,

Allow me first of all to congratulate our Chairman for his recent election, as well as to restate our best wishes to the Vice-chairmen and the other members of the Bureau on their re-election. On behalf of my Government, I wish all of them the best in their mission at the head of the Special Committee and offer them our full support in their efforts to bring about progress in the eradication of colonialism as we approach the end of the Second International Decade.

My Government is fully committed to this process and, in particular, to the decolonization of Gibraltar, the only non self-governing territory on European soil. We are ready to approach the issue with an open-mind, to identify innovative ways to move forward, but as you rightly said, Mr. Chairman, when you addressed the Special Committee on 28th February, "*each territory (...) should be considered on a case by case basis...*" and "*Administering Powers need to work within the parameters of the options enshrined in the General Assembly resolutions*".

In the case of Gibraltar, and as a consequence of the UN resolutions and decisions, as well as in other cases that centre the work of the Special Committee, the decolonization process requires restoring the national unity and territorial integrity of Spain solving in this manner a sovereignty dispute. That is the reason why a definitive solution can only come about through bilateral negotiations between Spain and the UK, in which the interests and aspirations of the Gibraltarians should be taken into account. Therefore the granting by the UK of a greater level of self-government in internal matters to the Territory is irrelevant to the decolonization process, since the principle of self-determination is not applicable to Gibraltar.

This having been said, I regret to have to inform the participants in this Seminar that, for the time being, we unfortunately cannot present the Special Committee with any good news regarding the decolonization of Gibraltar.

Although the Forum of Dialogue on Gibraltar, which is separate from the bilateral negotiations on sovereignty, has continued to carry forward its work on specific issues of local cooperation that can benefit the civilian population of Gibraltar and its surrounding region, the United Kingdom has consistently ignored our appeals to resume conversations to find a definitive solution to the Question of Gibraltar. Spain remains totally available to resume these negotiation on Gibraltar in accordance with the UN mandate. My Government hopes that the recent statement by the UK Minister for Europe, Jim Murphy, before the Foreign Affairs Committee of the House of Commons, recognizing both the Special Committee's role and Spain's voice in the process of decolonization of Gibraltar as well as expressing the UK's determination to continue to cooperate in that process, will lead to a change of attitude regarding sovereignty negotiations.

The recognition by Minister Murphy before the Foreign Affairs Committee on 26th March that a bilateral process of talks with Spain remains open, despite the existence of a Forum of Dialogue on Gibraltar, brings us to an issue which we have repeatedly brought to the attention of the Special Committee and previous Regional Seminars: the direct link between the military presence of the Administering Power in the Territory and the perpetuation of the colonial situation. The reality of the military presence of the Administering Power in any non-self governing territory is and will continue to be essential in the perpetuation of colonialism. We continue to believe this is the case in nearly all the remaining colonies on the UN list, including particularly where there are sovereignty disputes. As a consequence, conversations on military matters related to Gibraltar would lead us unavoidably to the issues of sovereignty and vice versa.

In the case of Gibraltar, and due to its strategic location, this Territory remains important to the UK's Ministry of Defense. The Rock and the isthmus host a joint military base, with a naval base and a military airfield, as well as an intelligence gathering station. The UK's Ministry of Defense spends annually in the Territory an amount equivalent to 7% of

Gibraltar's GDP (around 42,14 million £), maintains 818 servicemen deployed in the Territory and employs around 1040 people in the maintenance of the military installations. This important military presence of the UK in Gibraltar is epitomized by the existence among the civilian policemen of Gibraltar of UK military officers appointed to carry out police duties in the Territory.

The Special Committee has many times urged the Administering Powers to withdraw their military bases and installations from colonial territories and to refrain from establishing new ones. We believe this issue continues to be at the heart of many colonial situations, like that of Gibraltar, that still exist around the world. A very clear example can be found in the case of the British Indian Ocean Territory, where notwithstanding the expressed wishes of the native inhabitants of this archipelago, the Chagossian people, to return to the Territory, the UK has repeatedly stated that it will not renounce to its sovereignty and devolve it to the Republic of Mauritius as long as it is necessary for the defensive purposes of the UK.

All of this underlines the need for the Seminar and the Special Committee to examine in more detail this issue and to take it into account in its deliberations and conclusions. We also reiterate our request to the UN Secretariat to continue to incorporate information about this aspect of colonialism in the Working papers it prepares annually regarding each of the remaining non-self governing territories. Allow me to thank the Decolonization Unit of the UN Secretariat for the effort it has done in this direction in the working papers on the non-self governing territories published last month.

Mr. Chairman,

We very frequently hear statements by interested parties blaming the UN Special Committee for using an outdated set of criteria to determine if a Territory has been effectively decolonized and for not making any progress towards that end. These same quarters would be very happy to see the UN role in decolonization swiftly ended and that the colonial relationship between the Administering Power and its territories was regarded as a purely internal matter no longer subject to international oversight. This could lead us to what has been referred to as a strategy of "*colonial accommodation*":

the end of the UN's role in the decolonization process without the territories having achieved real decolonization in accordance with the UN's relevant resolutions. The basis of this new strategy is to seek an accommodation for the *status quo* colonial arrangements by challenging the relevance and legal basis of the UN decolonization mandate enshrined in the UN Charter and resolutions. The primary intention of this strategy is to reduce the number of colonies on the UN list of non-self governing territories without the need for the UN to assess and confirm which of them have been decolonized.

This strategy of "*colonial accommodation*" has been used by some in the context of the recent constitutional reform in Gibraltar, which has given place to the new Order in Council that has brought into effect the new constitutional arrangements for that Territory and which has been submitted to the people of Gibraltar in a locally organized referendum. Leaving to one side the fact that in accordance with the UN relevant resolutions and decisions, the definitive solution to the Question of Gibraltar can only come about through bilateral negotiations between Spain and the UK, and consequently the principle of self-determination doesn't apply to Gibraltar's decolonization, it cannot be pretended that the UN should endorse the new constitutional text as an example of self-government.

Apart from the reserved powers of the UK's appointed Governor of Gibraltar and the powers of the UK to unilaterally legislate for the Territory, we cannot forget that the new constitutional arrangements do not comply with one of the main requirements of decolonization in Resolution 1541 (XV): that they should be defined by the Territory itself in a constitution "*without external interference*". In other words, without the involvement of the Administering Power. "*Colonialism by consent*" does not mean that the resulting political arrangements are any less colonial.

In the case of Gibraltar's decolonization, we cannot honestly blame the UN system for the lack of progress in eradicating Colonialism. We should rather look to the Administering Power and request it to implement all the relevant UN resolutions and decisions, without picking and choosing those to be complied with. Allowing and endorsing this selective compliance would lead to the UN losing its credibility as it would

no longer appear to be bound by its own decisions. My Government, consequently, will oppose any initiative to see Gibraltar removed from the UN list of non-self governing territories on the basis of its constitutional reform and its implementation, since this would constitute not only a noncompliance of the UN mandate but would lead to avoiding the real solution and would also result in the loss of international oversight of the UN.

Mr. Chairman,

Allow me before ending my intervention, to refute some other assertions regarding Gibraltar that have been aired recently in many international instances to try and justify why the UN should not take care any more of the decolonization of Gibraltar. We have heard that Her Majesty Queen Elisabeth II is Queen of Gibraltar but not as a consequence of Her Majesty being the Queen of the United Kingdom of Great Britain and Northern Ireland. We have also listened to statements that the Governor of Gibraltar represents the Queen and not the UK Government in the Territory, and that the Secretary of State for Foreign and Commonwealth Affairs instructs the Governor not as a member of the UK Government but as a member of the Privy Council of Her Majesty the Queen.

All this is a nominalist game and a presentational discussion without any serious basis. As stated in the judgment "*Regina v. Secretary of State for Foreign and Commonwealth Affairs ex parte Quark Fishing Limited*" regarding the territories of South Georgia and South Sandwich Islands:

*"The Secretary of State which advises Her Majesty on the exercise of her powers in relation to the Islands is the Secretary of State for Foreign and Commonwealth Affairs of the United Kingdom. The legality of his actions can be challenged in the Courts of the United Kingdom. In those circumstances, to maintain the strict separation between Her Majesty as Queen of the United Kingdom of Great Britain and Northern Ireland and Her Majesty as Queen of South Georgia and the Sandwich islands does indeed look like the abject "surrender of substance to form".*

The same is to be said of the statements on the nature of the Governor of Gibraltar. It is no use to say the Governor is acting as Her Majesty the Queen's representative in the Territory and in right of that Territories, not as the UK representative. That doesn't change the nature of the Governor of Gibraltar as of that of any Governor of other *British Overseas Territories*. He is, as stated by a member of the Foreign Affairs Committee of the House of Commons during the hearings that have taken place in the first quarter of this year in its inquiry on all the *British Overseas Territories*, "a creature of the Foreign Office". It is absurd to pretend that his appointment is not made by the Foreign and Commonwealth Office and that it is not the Foreign Office that selects him and monitors his performance. Furthermore, his Deputy, who is always a UK career diplomat, also receives instructions from London, and participates, on behalf of the Governor, in many local instances in which the UK has a say. For instance, in the Gibraltar Police Authority.

In this propaganda effort by some to present the modern "self-governed" Gibraltar as having concluded its decolonization process we have also witnessed in recent times a more passive attitude by the UK as regards its full international responsibility for the Territory. This has led to several situations in which the Territory has attempted to play a role of self-sufficiency, but hasn't had the capabilities or knowledge to tackle the problems with the resources available. This has led to undesirable international consequences that could have been avoided had the Administering Power intervened or supported the efforts of the Territory to solve the issues, given its international responsibility.

Mr. Chairman,

We trust that this semantic exercise will soon be abandoned and that time and experience will convince the UK to take on its obligation, in accordance with the UN mandate, to engage in negotiations with Spain in order to reach a definitive solution to the Question of Gibraltar, bringing about its decolonization.

However, you can rest assured that in the meantime Spain will continue to contribute, to the extent possible, to prevent this colonial situation from affecting negatively the life of

the inhabitants of Gibraltar and the surrounding region. We hope that this will help create the right conditions that will enable negotiations on the pending sovereignty issues to be restarted soon, if possible, before the end of the Second International Decade for the Eradication of Colonialism in 2010. Until such time arrives, and as I stated before, I believe it would be very unfair to blame the Special Committee in particular, and the UN system in general, for a lack of progress on Gibraltar's decolonization which is and will continue to be the main responsibility of its Administering Power.

Thank you, Mr. Chairman.