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SECOND INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

Caribbean regional seminar on the implementation of the Second International Decade
for the Eradication of Colonialism: challenges and opportunities in the process of
decolonization in today's world

Frigate Bay, Saint Kitts and Nevis
12 to 14 May 2009

STATEMENT

BY THE REPRESENTATIVE

OF SPAIN

STATEMENT OF THE REPRESENTATIVE OF SPAIN

Mr. Chairman,
Distinguished Delegates,
Ladies and gentlemen,

Let me begin by warmly congratulating our Chairman on his re-election. I wish him the best for a successful term in office and offer him the full support of my country in his efforts.

One more year, I am pleased to address the participants in the Regional Seminar on behalf of my Government. Following the calls by the General Assembly on all Member States, we have come to this forum to strengthen our 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 a European State maintains on the territory of another European State that, furthermore, is its partner in the European Union and its ally under the North Atlantic Treaty. As I have had the opportunity to state on many occasions, Spain, as ever, is eager to put and end to this colonial situation.

First of all, I must remind the Delegates and participants that the situation of Gibraltar is of a colonial nature and, therefore, incompatible with the purposes and principles of the United Nations Charter. Moreover, the question of Gibraltar has a particular characteristic: it disrupts the national unity and the territorial integrity of Spain.

The United Nations General Assembly, by its Resolution 1514 (XV), paragraph 6, points out that there should be compatibility between the principle of self-determination of peoples and the principle of territorial integrity of states. Following this doctrine, the Special Committee on Decolonization clearly differentiates between those non-self-governing territories subject to a decolonization process where there is a dispute over sovereignty and others in which there is no such dispute.

As our Permanent Representative in the United Nations stated last year in the Fourth Committee of the UN General Assembly, "even though sometimes there have been attempts to artificially convince this Committee that decolonization and the sovereignty dispute are two issues that must be examined separately, in the case of Gibraltar, the consolidated doctrine of the United Nations has inextricably joined them."

Furthermore, there is an International agreement which rules over this dispute: the Treaty of Utrecht. This Treaty, signed in 1713 and accepted both by the United Kingdom and Spain, establishes the future of Gibraltar leaving only two options for this territory: to remain British or to return to Spain, since the Treaty states that Spain enjoys the right of first refusal should the United Kingdom wish to "sell or by any means to alienate" this territory. This means that Spain's consent is required for any change in Gibraltar's international status.

Consequently, the applicability of the principle of self-determination to the inhabitants of Gibraltar is not only limited by other principles and rights of the UN Charter but also by the Treaty of Utrecht. In this sense, the Permanent Representative of the United Kingdom declared before the Fourth Committee last year that "it is the position of Her Majesty's Government that independence would only be an option with Spanish consent."

Considering all this, I must remind you the words of the President of the Committee of 24, Ambassador Natalegawa, in his message to the Special Committee: "I encourage you to continue to pursue a pragmatic and realistic approach taking into account the specific circumstances of each territory."

The mandate of the United Nations concerning Gibraltar has been clear since 1964. It invites the United Kingdom and Spain to find a negotiated solution taking into account the interests of the population of the Colony. Following this mandate, one more year, I must express my Government's will of resuming the bilateral talks enshrined in the Brussels Process in accordance with the United Nations doctrine.

Mr. Chairman,

Spain does not obviously share any of the statements pronounced in previous seminars and in several UN bodies such as the Special Committee or the Fourth Committee which described the United Nations doctrine as anachronistic, its criteria as outdated and unrealistic, and the practices of these seminars and those of the Special Committee as distorting and manipulative. Even the principle of territorial integrity has been rejected in statements made from some quarters.

In contrast to these assertions, the Spanish Government considers that the work of the Special Committee continues to be fully relevant and it also believes, as I have already said, that we must work within the parameters of the UN doctrine and mandate. We reiterate our request to the UN Secretariat to continue to gather information for 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 paper on Gibraltar circulated last month.

Furthermore, it has also been stated that the new constitutional relationship with the United Kingdom constitutes a "modern, non colonial relationship which results in Gibraltar no longer being a colony", asking for the removal of the territory from the list of "territories that are undergoing the decolonization process".

These assertions are opposed to fundamental United Nations principles concerning decolonization. In addition to this, Gibraltar's new Constitutional Order, granted by the United Kingdom in 2006, does not entail any change of the international status of the British colony, which continues to be that of a non-self-governing territory, as we have previously proclaimed in Regional seminars, the Special Committee and the General Assembly calling it a "colonial accommodation". We must remind the Delegates that "colonialism by consent" does not mean that the resulting political arrangements are any less colonial. Moreover, the new constitutional text does not affect the legal validity of the Treaty of Utrecht.

My Government is also opposed to any attempt to see Gibraltar removed from the UN list of "territories that are undergoing the decolonization process". I must remind the Delegates of the fact that the United Nations General Assembly is the only body that can take the decision of removing a non-self-governing territory from this list.

For all these reasons, the Spanish Permanent Representative took part in the Special Committee and in the Fourth Committee, on 18th June and 7th October 2008, respectively, expressing the Spanish Government's will of fulfilling the United Nations' mandate of decolonizing Gibraltar by means of a negotiation between the United Kingdom and Spain.

Therefore, as our Permanent Representative did back in June and October, I reject, on behalf of my Government, the biased interpretations of the UN doctrine and I repeat that we strongly believe in its importance and applicability and in the relevance of the Special Committee and of the Fourth Committee of the General Assembly concerning decolonization. Finally it is also impossible to accept that the new Constitutional Order of Gibraltar is presented in order to avoid fulfillment of the UN resolutions.

Mr. Chairman,

One more year, I must mention the Decision on Gibraltar, adopted by consensus by the General Assembly. This Decision has been unanimously adopted for 35 years now. In compliance with it, the Spanish Government, with the support of all the political forces in Spain, is prepared to resume bilateral negotiations with the United Kingdom. We consider the bilateral negotiations the only way to solve the sovereignty issue, since the Forum for Dialogue on Gibraltar does not replace the Brussels Process, as it is clearly stated in the statement made jointly by the Governments of the United Kingdom, the Kingdom of Spain and Gibraltar on 16 December 2004. This joint statement says that "the Governments of the United Kingdom, the Kingdom of Spain and Gibraltar now confirm the establishment of a new three-sided forum for dialogue on Gibraltar, separate from the Brussels Process".

As I have already stated, the validity of the Treaty of Utrecht is not contested by Spain nor by the Administering Power and this Treaty grants Spain the right of first refusal should the United Kingdom wish to alienate the territory. Furthermore, there is the question of the Isthmus, not ceded to the United Kingdom by this Treaty of 1713 nor ever since. This Spanish land is illegally occupied by the United Kingdom. Both the validity of the Treaty and the question of the Isthmus entail that the decolonization process of Gibraltar is different from that of other British non-self-governing territories.

I regret to have to inform the participants in this Seminar that, for the time being, we unfortunately cannot provide the Special Committee with any good news regarding the decolonization of Gibraltar. The United Kingdom has consistently ignored our appeals to resume conversations to find a definitive solution to the question of Gibraltar. Spain remains fully available to resume negotiations in accordance with the UN mandate and we hope that time and experience will convince the UK to take on its obligation and engage in negotiations with Spain in order to reach a definitive solution to the question of Gibraltar, bringing about its decolonization.

Turning to another subject, I would like to comment on the latest developments in the Forum for Dialogue on Gibraltar. As it has been already said on several occasions before the Special Committee and the Fourth Committee, Spain continues to be fully committed to this process, which was established in October 2004.

The agreements achieved in these meetings are being implemented and this should contribute to creating such favorable conditions that will allow us to successfully resolve the questions of sovereignty separately, at an appropriate time, in the Brussels Process.

Since the last Seminar, we have focused on the implementation of the specific agreements reached at the first Ministerial meeting in Córdoba, on 18th September 2006 and at the second Ministerial meeting, which took place in London, on 2nd July 2008. The new areas of work are maritime communications; environmental cooperation; judicial, customs and police cooperation; financial services and taxation; visas and education. These agreements aim at benefiting the people of Gibraltar and that of the surrounding region, therefore our Government is willing to continue its efforts in order to achieve the success of the Forum of Dialogue and the implementation of the resulting agreements, one more year.

I thank you, Mr. Chairman.

Frigate Bay, Saint Kitts and Nevis
13 May 2009