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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: assessment of decolonization process in today's world**

**Nouméa, New Caledonia  
18 to 20 May 2010**

**STATEMENT**

**BY**

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**(Spain)**

## DRAFT OF THE STATEMENT OF THE REPRESENTATIVE OF SPAIN

Mr Chairman,  
Distinguished Delegates,  
Ladies and gentlemen,

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

I am pleased to address the participants in the Regional Seminar on behalf of my Government. 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, following the calls by the General Assembly on all Member States. 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 in the North Atlantic Treaty. As we have had the opportunity to state on many occasions, Spain, as ever, is eager to put an end to this colonial situation.

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

Resolution 1514 (XV) of the General Assembly points out, in its paragraph 6, 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 rightly 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 Mr. Oyarzun, our Deputy Permanent Representative in United Nations, stated last year in the Fourth Committee *“although, on some occasion, an attempt was made to artificially convince this Committee that decolonization and the sovereignty dispute were two issues that ought to be examined separately, in the case of Gibraltar, the consolidated doctrine of the United Nations has inextricably joined them, given that the two mentioned disputes, which violate the territorial integrity of Spain, constitute a clear violation of the aforementioned dispute”*.

In fact, as has often been stated by my country's representatives in this Organisation, there are two issues regarding the question of Gibraltar that constitute our differences with the Administering power in this question: in the first place, the territory ceded by the Treaty of Utrecht that should return to Spain by means of its decolonisation; in the second, the territory of the Isthmus, occupied illegally by the United Kingdom, that should return to Spain, its rightful owner. Both issues constitute a violation of the territorial integrity of my country

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 this territory is not only limited by other principles and rights of the UN Charter but also by the Treaty of Utrecht. In this sense, the Deputy 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 of the words of the Secretary-General, in his message to the Special Committee on the occasion of the opening of its 2010 session, delivered by Mr. Pascoe, Under-Secretary-General for Political Affairs, *"If the United Nations is to fulfil its obligations in supporting the legitimate aspirations of the peoples of [the remaining Non-Self-Governing Territories], a pragmatic and realistic approach –taking into account the specific circumstances of each—is most likely to lead to concrete results"*.

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 to resume the bilateral talks enshrined in the Brussels Process in accordance with the United Nations doctrine.

Mr. Chairman,

Spain does not obviously share the **statements** pronounced in several UN bodies such as this forum, the Fourth Committee or the Special Committee, **by the Chief Minister of Gibraltar**, which describe the United Nations doctrine as anachronistic, its criteria as outdated and unrealistic, the practices of this Seminar

and those of the Special Committee as distorting and manipulative. Neither does Spain share the Chief Minister's rejection of the United Nations principle of territorial integrity.

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 mentioned, that we must work within the parameters of the UN doctrine and mandate. Once again, we reiterate our request to the UN Secretariat to continue to gather information for the Working Papers it so accurately 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 Gibraltar circulated last month.

Furthermore, it has also been stated that the new constitutional relationship with the United Kingdom constitutes a *"modern and mature relationship between Gibraltar and the UK"*, a description deemed not applicable *"to any relationship based on colonialism"*, and, consequently demanding the removal of the territory from the list of "territories that are undergoing the decolonization process".

These assertions are opposed to essential United Nations doctrine and principles. 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 in any way the legal validity of the Treaty of Utrecht.

My Government is therefore 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 delegation intervened before the Special Committee and the Fourth Commission, on the 9 June and 9 October 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 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

both the Special Committee and the Fourth Commission 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 fulfilment of the UN resolutions

Mr. Chairman,

One more year, Spain must mention the Decision on Gibraltar, adopted by consensus by the General Assembly. This Decision has been unanimously adopted for 36 years now. In compliance with it, the Spanish Government, with the support of all the political forces in Spain, remains prepared to resume bilateral negotiations with the United Kingdom. We consider bilateral negotiations the only way to solve the sovereignty issues, since the Forum for Dialogue does not replace the Brussels Process, as it is clearly stated in the Joint Statement published on 16 December 2004. The 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 has never been contested either by Spain or 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 the treaty of 1713 or 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 totally 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 favourable 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 18<sup>th</sup> of September 2006, the second Ministerial meeting, celebrated in London, on 2<sup>nd</sup> of July 2008 and the third ministerial meeting, held in Gibraltar on 21 July 2009. The new areas of work continue to be maritime communications, environmental cooperation, judicial, customs and police cooperation, financial services and taxation, and 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 the Dialogue and the implementation of the resulting agreements, one more year.

I thank you, Mr. Chairman.