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THIRD INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

Caribbean regional seminar on the implementation of the Third International Decade
for the Eradication of Colonialism: goals and expected accomplishments

Kingstown, Saint Vincent and the Grenadines
31 May to 2 June 2011

STATEMENT

BY

The Representative of Spain

Mr Chairman,

As this is the first time my delegation takes the floor since your appointment as chairman of the Special Committee, let me start by congratulating you and conveying you, on behalf of the Spanish Government, its best wishes for success in your mission.

In addition, I would like to thank the Government of St. Vincent and the Grenadines for hosting this session of the Caribbean Regional Seminar giving us the opportunity to experience the beauty of this country and hospitality of its nationals.

Mr Chairman,

A few months ago we celebrated the 50th anniversary of UNGA resolution 1514/XV and, at the same time, we inaugurated a new, Third, Decade for Eradication of Colonialism. Both aspects emphasize the importance that the Organization has accorded to the issue of decolonization, and also that it continues to do so, through the recognition that there is still a long way to go.

Spain explicitly endorsed the Organization's proposals with respect to both issues. First of all, because we share with the vast majority of member States the conviction that it is possible to overcome the resistance of a few to give up unfair privileges that are rooted in clearly outdated historical contexts.

Secondly, because as an independent State, Spain is suffering against its will, with the question of Gibraltar, a colonial situation that undermines its territorial integrity. The United Nations Organization has recognized this on consecutive occasions.

Gibraltar's case, as it also happens with that of Malvinas Islands -though they are not exactly coincident- certainly is an unusual case in the general context of the decolonization. I will present, once again, for the record, the facts which, in the view of my Government, are decisive when considering the decolonization process of Gibraltar.

It has been nearly 300 years now that Spain was forced to yield the city and the port of Gibraltar to Great Britain, under the Treaty of Utrecht (1713), which put an end to the War of the Spanish Succession, but that cession was done in very explicit terms, that leave no room for doubt regarding:

- The extent and limits of the territory that was being yielded, and
- The conditions under which that cession was being made

Going well beyond that and without any legal rights, at a later date Great Britain occupied by force an additional portion of Spanish territory, not included in that Treaty - and therefore not ceded- which today remains a *de facto* part of what we call Gibraltar.

Here are the origins of the problem and the starting point of the situation:

1. Although Spain has always recognized British sovereignty over the areas ceded by the Treaty of Utrecht, Spain demands, in the context of the decolonizing work

of the United Nations, the retrocession of the territory which until 1713 was Spanish, and thus put an end to an incoherent situation.

2. However, Spain does not accept that such sovereignty extends to territories she never ceded, whose return she demands unconditionally. This is the case, in particular, of the occupied part of the Isthmus.

The fact that almost 300 years have elapsed since the signing of the Treaty of Utrecht is an argument used self-interestedly by some to assert that it lacks validity. This is an unusual assertion that cannot be legally sustained as the Treaty is the only legal title the United Kingdom enjoys to occupy a part of the Spanish soil.

What is true and relevant, is that for both the United Kingdom and Spain the Treaty continues to be an unquestionable reference.

This has been recognized on numerous occasions and in different ways by the administering power. The most conspicuous, in recent times, whilst granting Gibraltar its Constitutional Decree in 2006, recognizing that under the said Treaty Spain is entitled to a first option on the territory in the event that it remain no longer under the sovereignty of the United Kingdom.

Therefore, even if historical circumstances were not clear enough, this recognition shows that it is not a colonial situation similar to others, as the administering power recognizes its obligation to give Spain the first option should it decide to dispose of or otherwise alienate the territory of Gibraltar.

But fortunately, the evolution of the dispute does not depend on the wishes of the administering power or its interpretation of the Treaty of Utrecht. This Organization has been involved with the case since the onset of its work on decolonization and has always been sensitive to the events described by successive representatives of my country.

Mr. Chairman,

The United Nations mandate with respect to Gibraltar has been clear since the Special Committee began its work. Over the last few decades, consecutive resolutions and decisions of the General Assembly call for bilateral negotiations between the United Kingdom and Spain to find a negotiated settlement that makes the decolonization of Gibraltar possible, precisely because the Assembly considers that this is a colonial situation with clearly different foundations than those of other cases, since it disrupts the principles of unity and territorial integrity of a sovereign country, as set out in resolution 2353 of the General Assembly of 1967, the validity of which nobody questions.

And, with regard to these negotiations, the General Assembly has requested, not surprisingly, that the interests of the inhabitants of Gibraltar be taken into account, an aspect on which I would like to linger briefly:

Spain is well aware of the interests of the inhabitants of Gibraltar, as shown within the Forum of Dialogue on Gibraltar, created precisely at the request of the Spanish Government to try, together with the United Kingdom and the local authorities of the

colony, to establish practical arrangements for the benefit of the inhabitants of Gibraltar and the surrounding region of the Campo de Gibraltar.

It is clear, though, that such local interests cannot become an obstacle or an excuse to disregard the resolutions and decisions of the organs of this Organization.

The inhabitants of Gibraltar have rights and interests that Spain has formally offered to respect and guarantee. But Spain does not recognize among those rights that of self-determination regarding the territory, because it is not applicable: we should not forget that their presence as population of the territory happened well after the arrival of the British.

Such artificial origins, resulting from the planning by the occupant and the fact that return of the native population has never been allowed, together with the disruption of the principle of the territorial integrity of Spain, are what constitute the basis for the steadfast refusal of my country to recognize the current state of affairs and to accept the claim by the current Government of the Colony that self-determination has already taken place, and with it the "decolonization" of Gibraltar.

Spain will not give up or sacrifice, for the benefit of the United Kingdom, its legitimate rights over the territory, that predate the existence of the British presence or of those who are now called Gibraltarians. For Spain, the latter are the result of a typical colonial situation, and have become an instrument of action of that colonial power, which the United Kingdom has been molding at its convenience.

Thus, both the General Assembly and this Special Committee have reminded the administering power that it is up to this Organization, and through established procedure, to determine the progress and, where appropriate, the time when decolonization of a non self-governing territory -Gibraltar in this case-, occurs.

Such a change in the status of the territory, cannot, under any circumstances, be subject to a deal between the administering power and its colony, least of all when, as in the present case, it is intended to affect the legitimate rights of the member State the Organization itself points out as an unavoidable party in the negotiations.

Through these facts, we can only see an arrangement between the colonial power and the population of the colony, both of which are interested in maintaining a privileged position that has nothing to do with the rights of colonized peoples and tries to ignore the rights and legitimate aspirations of Spain.

The United Kingdom criticizes the celebration the 50th anniversary of resolution 1514 and the adoption of a Third Decade for the Eradication of Colonialism. That is why she voted against the relevant resolutions; through her representatives she has even stated that the Committee of 24 would be outdated because it does not take into account the evolving relationship with her dependent territories.

The only certainty, is that today, these territories are still dependent and that those who claim self-determination, do so under a legal framework granted by the Government of Her Britannic Majesty; a legal framework that also provides for a reversal of the

situation, as we have seen in some of them such as the suspension of the local Government of Turks and Caicos in 2009. Even in those cases to which, a-priori, that principle would apply legitimately, what sort of self-determination would we be talking about?

This is the situation we are facing and that, taking advantage of this seminar, I want to highlight. My country is seeking a serious negotiation with the United Kingdom for the return of the territory treacherously usurped as well as for the retrocession of the portion ceded to Great Britain in its day and does not have the slightest interest in coercive integration of the civilian population of the Rock.

As it has been expressed every time it has had the opportunity to do so, my Government has a strong wish to resume the negotiations with the United Kingdom within the so-called Brussels Process, agreed upon by both countries back in 1984. This agreement is in keeping with what has been decided in the framework of the United Nations; it is also the only way to put an end through dialogue, to the colonial situation of Gibraltar.

Mr Chairman,

The Spanish Government is convinced that the work of the Special Committee remains fully relevant and that we should provide it with continuity, within the parameters of the doctrine of the United Nations and its mandate.

We support the view, expressed earlier, about adopting a realistic position that takes into account the specific characteristics of each territory and about carrying out a "case-by-case" approach. The uniqueness of Gibraltar's situation which I have just summarized fits well with this approach.

We demand, when assessing Gibraltar's case, compliance with the procedure, established by the United Nations, to evaluate and decide on the progress in decolonization, so that, as has been stressed, it cannot be left to the discretion of interested parties but is decided on a solid foundation and in a transparent manner.

In this regard, the opinion of Spain is that, unfortunately, such progress is not taking place. The United Kingdom insists it will not negotiate with Spain against the wishes of the people of Gibraltar, and in the framework of regional cooperation, the Forum of Dialogue has been jeopardized by one of the participants, the Government of Gibraltar, and has not made any substantive progress in recent times.

Mr. Chairman,

The Government of Spain particularly appreciates the commitment and work done by the different United Nations bodies to fulfill the objectives of resolution 55/146 and is confident that this effort will be continued during the Third Decade. In particular, it wants to highlight the work of this Committee, whose membership has been increasing and that, as the relevant policy organ of the General Assembly on decolonization, has made a strenuous effort to implement the Action Plans. The organization, one more year, of this regional seminar is a good testimony of its outstanding work.

Let me conclude my intervention by thanking as well the Decolonization Unit of the Secretariat for its interest in preparing the working paper on Gibraltar; I can assure everyone that in my country you can find a reliable and enthusiastic collaborator in the implementation of the decolonization mandate.

Thank you very much Mr. Chairman.