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Caribbean Regional Seminar on the Implementation of the
Second International Decade for the Eradication of

St. George's, Grenada

22 to 24 May 2007

Statement by the representative of Spain

Mrs. Chairperson,

One more year, I am pleased to address the participants in a Regional Seminar on behalf of my Government. This forum gives us an opportunity to strengthen our efforts following the calls by the Action of the Second International Decade for the Eradication of Colonialism.

Since the convening of the Yanuca Regional Seminar in November 2006, there have been some new developments in relation to the only non-independent territory which is still remaining on a decolonization process.

The constitutional reform of this non self-governing territory concluded with the new Decree which came into effect on 2 January 2007 following its adoption by the Privy Council of the United Kingdom on 14 December 2006. On that same date, the Decree was forwarded to the British Governor of Gibraltar with a Dispatch of the Secretary of State of the Foreign and Commonwealth Office. These acts by the administering Power gave the new constitutional text of Gibraltar its legal force. I had the

The new constitutional text was submitted to the people of Gibraltar on 30 November 2006 by means of a consultation organized by the

Government of Gibraltar which had its own legal basis in spite of the fact that the right to self-determination of the people of Gibraltar is recognized in the United Nations Charter. However, it is worth remembering that this recognition has been formulated with clear limitations that were not correctly reflected in the letter sent to the UN Secretary General by the Permanent Representative of the UK to the United Nations on 22 January 2007.

According to the parliamentary response of the Minister for Europe from the Foreign and Commonwealth Office of 4 July 2006 and to the Dispatch addressed to the Governor, this so called right to self-determination of the people of Gibraltar would be limited for the

following reasons:

1. It was not promoted in accordance with the other principles and rights of the Charter of the United Nations;
2. Article X of the Treaty of Utrecht gives Spain a right of refusal over Gibraltar should the United Kingdom renounce its sovereignty;
3. The new constitutional text does not diminish British sovereignty over Gibraltar and simply gives Gibraltar more control over its internal affairs.

In short, the British Government is recognizing a so called right of Gibraltar to self-determination that is limited to its "internal" aspect and does not affect its external relations.

If, by ignoring all our arguments on the new constitutional text and the limited value of the exercise of the alleged right to self-determination

self-governing territory that would imply deviating from all the UN doctrine on this matter and infringing on Spain's rights over the Territory. Whether the United Kingdom recognizes that Article X of the Treaty of Utrecht is in full force (as stated in the Disputes addressed to the British Governor of Gibraltar and annexed to the Constitution) affirming that Gibraltar has concluded its decolonization process would be tantamount to a negation that would frustrate or impede Spain's exercise of its historical rights over Gibraltar as recognized by that Treaty.

Moreover, Gibraltar continues to be a British Overseas Territory for all purposes. Or, in other words, a non self-governing territory under British sovereignty, over which the United Kingdom retain important powers which show that Gibraltar has not reached the "maximum self-government" and that its colonial dependency has come to an end.

was highlighted in April this year when a crisis erupted in the Gibraltar judicial sphere.

As I underlined in the previous Seminar, doubts have been cast over

report presented on 16 November 2006), in reference to the principle of separation of powers. The problems that arose in April in the Judiciary led to a crisis between the Chief Justice of Gibraltar and the

governor, resulting in an intervention by the Governor. It is clear that this

intervention was a direct result of the exercise of the right to self-determination by the authority which reserved this judicial

power in the new constitutional Decree in regard to the so-called "Judicial Service Commissions".

This is the crisis that I refer to in the report from a leader in the Gibraltar press from April which illustrates what I mean:

...current crisis that the Judiciary finds itself in one thing is
have to step in, act as referee and son in law.

...Chief Minister's assertion that this "new" Constitution heralds a new and mature non-colonial relationship with Britain. Not six months since its masters."

In conclusion, the new constitutional text that the United Kingdom has granted to Gibraltar could be qualified as a text that permits a "modern and mature" relationship between the UK and Gibraltar. But by the same token, it has not changed the international status of Gibraltar nor does it have any relevance in relation to its pending

decolonization unless, which is what the UK and Gibraltar can only come

about through a negotiation between Spain and the United Kingdom.

According to some biased interpretations, the pending decolonization process of Gibraltar and the dispute over the sovereignty between Spain

and the United Kingdom, which is what the UK and Gibraltar can only come about through a negotiation between Spain and the United Kingdom, has put clearly, this is radically untrue. Paragraph

29 of the Venice Seminar report says that "in the process of decolonization, and where there are no disputes over sovereignty, there is no alternative to the principle of self-determination, which is also a fundamental human right". The acknowledgement of a dispute in the case of the decolonization of Gibraltar has also been admitted in numerous texts by the UK. For example, in the White Book of March 1999, "*Partnership for Progress and Prosperity: Britain and the Overseas Territories*", it is stated that, in the decolonization of Gibraltar, there is a particular circumstance that does not occur in other territories, given that the British title over the Rock is based on the Treaty of Utrecht.

This is different to the situation of the decolonization of other territories, where self-determination is the only relevant principle.

Ms. Chairperson,

Turning to another subject, I would like to comment on the latest developments in the Forum for Dialogue on Gibraltar. As it was 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. Since the last session we have focused on the implementation of the specific agreements reached at the first ministerial meeting in Cornwall, on 9 September 2006. These agreements, whose aim is to reform the people of Gibraltar and that of the surrounding region, are being implemented in a thorough and completely satisfactory manner.

Spain, the United Kingdom and the Government of Gibraltar. This should contribute to creating serene and favorable conditions that will

time.

Until now, the dispute over the sovereignty of Gibraltar has never been discussed in the Forum for Dialogue, and it has been made clear that the Córdoba agreements do not prejudge positions about sovereignty and that references to this matter are of a bilateral nature between Spain and the UK.

Spain hopes that the Córdoba agreements and the satisfactory conclusion of the constitutional reform can allow us to advance in the search of a definitive solution to the question of Gibraltar.....

Ms. Chairperson,

Before concluding, I would like to bring up another aspect that has been the focus of previous regional Seminars on decolonization: the direct link between the military presence of the administering Power in the territory and the perpetuation of the colonial status.

paragraph 53 of its conclusions, *"the participants noted with concern the military installations and activities of the administering Powers in Non-Self-Governing Territories, which run counter to the rights and interests of the people concerned and which create serious health and environmental hazards"*. In the case of Gibraltar, the UK maintains substantial military activities and facilities in the Colony. Among other strategic interests that justify the perpetuation of this colonial situation, it is worth mentioning the port calls by nuclear submarines and the communication and intelligence facilities. London keeps approximately 500 military men and 1030 civilians in Gibraltar, all employed by the British Ministry of Defense. The United Kingdom carries a very important amount (more than 500 million euros) of expenditure and investment in military activities and facilities in the Rock.

For all the above reasons, I can only be surprised by the fact that in 2007, all references to the United Kingdom's military presence in Gibraltar, as well as to the expenditure that this generates for the British Government, have been omitted. Given its relevance in the framework of decolonization, it would be advisable to reinsert these references in future annual documents.

Ms. Chairperson,

Spain has already stressed in previous Regional Seminars its interest in making headway in the decolonization process of Gibraltar. I also

believe that in view of what I have stated, both my Government is contributing as much as possible to prevent the colonial reality in Gibraltar from affecting negatively its inhabitants and those of the surrounding region. We consider this is a positive element to be taken into account.

Nevertheless, I must add that in 2006 there has not been any progress in the bilateral negotiations on the dispute and, ultimately, in the decolonization process of Gibraltar.

We trust that, despite its stated position of non-association with the Social Committee based on the perception of its criteria as being outdated, the UK will, at the appropriate moment, take on its obligation to engage in negotiations with Spain in order to reach a definitive solution to the question of Gibraltar. In that solution the have to be taken into account, in addition to the obligations arising from the Treaty of Utrecht and from the resolutions and decisions consensus, the UK cannot also ignore its commitments with Spain in this issue since the early 1980s.

I thank you, Ms. Chairperson.

St. George's, Grenada, May 2007