

Spanish Diplomatic and Parliamentary Practice in Public International Law, 2010

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The following is a list of abbreviations related to the documentation of the Spanish Parliament used in the preparation of this Section (<http://www.congreso.es>, and <http://www.senado.es>).

BOCG-Cortes Generales – Boletín Oficial de las Cortes Generales. Cortes Generales. Serie A, Actividades Parlamentarias (Official Journal of the Spanish Parliament. Spanish Parliament. Series A, Parliamentary Activities).

BOCG-Congreso. D – Boletín Oficial de las Cortes Generales. Sección Congreso de los Diputados. Serie D, Actos de control (Official Journal of the Spanish Parliament. Congress of Deputies. Series D, Acts of control).

BOCG-Senado. I – Boletín Oficial de las Cortes Generales. Sección Senado. Serie I, Boletín General (Official Journal of the Spanish Parliament. Senate. Series I, General Journal).

DSCG-Comisiones Mixtas – Diario de Sesiones de las Cortes Generales, Comisiones Mixtas (Official Record of the Spanish Parliament. Joint Committee Meetings).

DSC-C – Diario de Sesiones del Congreso. Comisiones (Official Record of the Congress of Deputies. Committee Meetings).

DSC-P – Diario de Sesiones del Congreso. Pleno y Diputación Permanente (Official Record of the Congress of Deputies. Plenary Sessions and Standing Committee).

DSS-C – Diario de Sesiones del Senado. Comisiones (Official Record of the Senate. Committee Meetings).

DSS-P – Diario de Sesiones del Senado. Pleno (Official Record of the Senate. Plenary Sessions).

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I. INTERNATIONAL LAW IN GENERAL

1. Nature, Basis and Purpose

On the occasion of the 6th EU-Latin America and Caribbean Summit, held in Madrid on 18 May 2010, the following Declaration was made by the participants:

“2. In order to promote peace and security, freedom, democracy, rule of law, human rights and prosperity, we reiterate our commitment to multilateralism, mainly in the framework of the United Nations system. Within this context, we shall intensify our efforts at both sub-regional and bi-regional levels to identify common interests and, whenever possible, coordinate positions and actions in the multilateral organizations and fora of [sic] which our countries are Parties. In order to continue promoting an effective multilateral system, we remain willing to cooperate in the reform of the

United Nations, with the aim of strengthening the capacity of the UN to face the many challenges posed by the new millennium. We recognise the need to pursue the comprehensive reform of the main UN bodies, among them the General Assembly, ECOSOC and the Security Council with a view to enhancing the representativeness, transparency and effectiveness of the system.

3. We reiterate our support to nuclear disarmament and non proliferation. We commit ourselves to continuing our joint efforts toward the success of the VIII Review Conference on the Treaty on the Non-Proliferation of Nuclear Weapons.

4. We equally commit to the United Nations Conference on the Arms Trade Treaty, which will be undertaken in an open and transparent manner, on the basis of consensus, to achieve a strong and robust [T]reaty.

5. We confirm our commitment to the Universal Declaration of Human Rights, and the 1993 Vienna Declaration and Programme of Action as well as to the promotion and protection of universal human rights [,] as well as highlight our willingness to cooperate towards the common goal of attaining the highest human rights standards. Furthermore, we emphasise our mutual wish to extend our coordination, in fora such as the Human Rights Council in Geneva and the UNGA Third Committee in New York. We acknowledge the efforts related to the moratorium on the use of the death penalty.

6. We reaffirm our commitment to fight impunity, in particular for the most serious crimes under International Law, notably those referred to in the Rome Statute of the International Criminal Court (ICC). Their prosecution should be ensured by taking measures at the national or appropriate level and by enhancing international cooperation. We invite those countries which are not parties to consider the possibility to ratify or accede, as applicable, to the Rome Statute. We welcome the forthcoming ICC Review Conference in Kampala, Uganda, from May 31st to June 11th, 2010.

7. We reaffirm our commitment to the purposes and principles enshrined in the Charter of the United Nations. We reaffirm our decision to support all efforts to uphold [the] sovereign equality of all States, to respect their territorial integrity and political independence, to refrain in our international relations from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations, to uphold resolution of disputes by peaceful means and in conformity with the [P]rinciples of [J]ustice and [I]nternational [L]aw.

We firmly reject all coercive measures of unilateral character with extraterritorial effect that are contrary to [I]nternational [L]aw and the commonly accepted rules of free trade. We agree that this type of practice poses a serious threat to multilateralism. In this context, and with reference to UNGA [R]esolution A/RES/64/6, we reaffirm our well-known positions on the application of the extra-territorial provisions of the Helms-Burton Act.

8. We are determined to intensify our cooperation in order to address the global consequences of the economic and financial crisis and to prevent such crises from unfolding again, in line with the outcomes of the UN Conference on the World Financial and Economic Crisis and its Impact on Development (June 22nd–23rd, 2009), and also taking into account the goals set by the G-20 and appropriate regional fora. We will continue to strive to apply macroeconomic and financial policies designed to prevent

future financial crises with their attendant economic and social consequences; foster balanced and sustainable global economic growth; restore confidence; and stabilize world financial markets. We underline the importance to devote special attention to the social and economic impact of the crisis [,] notably in developing countries. We emphasize the need to reinforce support for vulnerable and poor people.

In that context, we reaffirm our commitment to work together towards a new international financial architecture, including the reform of the international financial institutions, giving increased voice and voting power to underrepresented developing and transition countries while also delivering on non-quota governance reforms. We also reaffirm our commitment to put in place reforms of the international regulatory and financial supervision framework, aimed at guaranteeing the stability and solvency of our financial systems.

9. We recall the 30th anniversary of the adoption of the Convention to [E]liminate all [F]orms of [D]iscrimination [A]gainst [W]omen (CEDAW), as well as the 15th anniversary of the adoption of the “Beijing Declaration and Platform for Action” (Beijing Plus 15) and emphasize the importance of gender equality and the empowering of women, increasing their participation in political, social and economic activities and addressing the negative impact of the international financial crisis on their status. On the same line, we strongly condemn all kind of gender-based violence, and recognize the need to take every necessary measure to prevent and eradicate it.

We acknowledge that gender issues need to be integrated into every aspect of the international agenda, including climate change. In this respect, we are committed to cooperate, with a view to developing a future dialogue.

10. We express our intent to improve the coherence and effectiveness of our development cooperation policies and to achieve the target of 0.56% by 2010 and to achieve the target of ODA/GNI ratio of 0.7% for the EU by 2015 as reflected in the Monterrey Consensus and the Vienna Summit Declaration. The Member States which joined the EU after 2002 will endeavour to increase their ODA/GNI ratio to 0.33% by 2015. Furthermore, we recognize the importance of working together at the United Nations High-Level Plenary Meeting on the Millennium Development Goals (MDGs) in September 2010, with a view to an action-oriented outcome to achieve the MDGs between now and 2015. We also recognize the significant progress made at regional levels towards achieving the MDGs.

11. We reiterate our commitment to pay special attention to [the] least developed countries, land-locked developing countries and small-island developing [S]tates.

12. We are committed to avoid protectionism in all its forms. We remain determined to favour an open and non-discriminatory, rule-based, multilateral-trade system and fully respect its disciplines, and we recognize its contribution in promoting the recovery from the economic crisis, and in promoting growth and development, in line with the principle of special and differential treatment for developing countries where appropriate. Concerning the WTO ongoing negotiating agenda, we reiterate our commitment to coordinate efforts towards achieving an ambitious, comprehensive, balanced and rapid conclusion of the Doha Development Round.

13. We recognize the principle of the sovereign right of States to manage and regulate their natural resources. Sustainability criteria should be taken into account.

We regard as essential contributions to the eradication of poverty and to the achievement of the MDG's the diversification and complementarity of the energy matrix, including through the promotion of renewable energy, as well as greater energy efficiency and energy savings in all sectors of the economies, including transports, changes in the current patterns of consumption and production, improved regional energy interconnectivity and peoples' access to energy services. We will exchange experiences on biofuel technology, norms and regulations, on hydroelectric and on other energies.

14. We acknowledge our common interest in improving energy efficiency and in reducing the intensity of greenhouse gas emissions in consumption and production activities in our countries, according to existing international commitments, to address the economic, social, environmental and other challenges posed by climate change. We further underline the importance of low emissions sustainable development strategies, for growth and development, in guiding and implementing adaptation and mitigation measures and actions. In accordance with the commitments under the United Nations Framework Convention on Climate Change (UNFCCC), we shall strengthen trust between our regions on climate change issues and intensify our cooperation towards achieving its objectives.

15. After COP 15 in Copenhagen and working together ahead of [sic] the COP 16 of the UNFCCC, recognising scientific views regarding the limit for the increase in the global temperature and building on progress made so far in the formal multilateral process, through the UNFCCC and the Kyoto Protocol, we express our support to Mexico in obtaining, through a transparent and inclusive negotiation process towards a comprehensive, ambitious and effective legally binding outcome aimed at reducing and limiting greenhouse gas emissions in order to achieve the ultimate objective of the UNFCCC, taking into account the principle of common but differentiated responsibilities and respective capabilities.

16. We take note that events were organized to stimulate the debate on Climate Change, such as the Conference on Climate Change that took place in Cochabamba [,] which [sic] conclusions have been sent to the UNFCCC, and the Dialogue for Progressive Action that took place in Cartagena.

17. We are determined to step up our efforts within the framework of the Convention on Biological Diversity [CBD] for the conservation and sustainable use of biodiversity, and will continue our efforts to significantly reduce the loss of biodiversity, bearing in mind the MDGs and the contribution of biodiversity for poverty eradication. We are determined to work towards the adoption of an effective and focused Strategic Plan for the post-2010 period including measurable, achievable and realistic targets, at the 10th Conference of the Parties to the CBD (COP 10).

We also reconfirm our commitment to successfully conclude the negotiations on an international legal regime on access to genetic resources and benefit sharing (ABS) at COP 10. We look forward to reaching an agreement on whether to establish an [I]ntergovernmental [P]latform on [B]iodiversity and [E]cosystem [S]ervices (IPBES) at the third and final *ad hoc* meeting in Busan, Republic of Korea, in June 2010.

18. We are determined to positively contribute to the launching of the UNEP Intergovernmental Negotiating Committee to develop a legally binding instrument on mercury, which [sic] first session will take place in Stockholm, from 7th to 11th June 2010.

19. We reaffirm that every culture has a right to exist and to preserve its own cultural heritage. In this regard, intercultural dialogue should foster mutual understanding, safeguard diversity, and cultural identity, while fostering the development of cultural industries.

20. We should intensify our cooperation regarding the challenges posed by terrorism, trans-national organized crime, corruption, illegal trafficking in arms and ammunition, the world drug problem, drug-related arms trafficking, money laundering, trafficking in persons, especially women and children; and smuggling of migrants.

We express our concern at the growing violence related, in some cases, to criminal organizations involved in the trafficking in illicit drugs, and call for actions to prevent those organizations from acquiring the means to pursue their activities that have the potential to affect civil society as well as law enforcement authorities.

We strongly reject terrorism in all its forms and manifestations and reaffirm that, whichever its origin or motivation, it does not find any justification whatsoever. We reiterate also our commitment to prevent, fight and eliminate terrorism and its financing through the broadest cooperation. Our cooperation to fight all these challenges will be carried out with full respect to human rights and the rule of law and in compliance with [I]nternational law.

21. We support cooperation in peace and security matters with the objective to strengthen the role of the UN in this field, including conflict prevention and crisis management. We will develop our bi-regional dialogue in this area.”

(UN Doc. A/64/803-E/2010/91, Annex).

II. SOURCES OF INTERNATIONAL LAW

III. RELATIONS BETWEEN INTERNATIONAL LAW AND MUNICIPAL LAW

On the occasion of the discussion held by the UN Sixth Committee on the scope and application of the principle of universal jurisdiction, on 13 October 2010, Ambassador Mr. Yáñez-Barnuevo, Permanent Representative of Spain to the UN, expressed that:

“(...) [T]he Secretary-General, relying on the data and remarks provided by several Member States, has written a report (doc. A/65/181) which reflects, in a balanced manner, the complex set of problems concerning the application of universal jurisdiction at present. Both the report’s structure and the systematization of the issues addressed deserve positive evaluation.

In particular, there should be positively assessed the clear distinction made between the principle of universal jurisdiction (the extra-territorial exercise of domestic jurisdiction) and international jurisdiction (exercised by international criminal courts), as

well as the approach to the relation between the principle of universal jurisdiction and the principle *aut dedere aut judicare* (the obligation to extradite or prosecute).

The report, like the present discussion, conveys that today the principle of universal jurisdiction is an institution which operates in various countries from different regions of the world, therefore being impossible to define it as an institution which belongs fully or mainly to a particular continent. Likewise, it must be highlighted that the report makes it possible to observe the States' different stances as to the scope and application of universal jurisdiction, as well as to identify the advantages and disadvantages posed by the institution in the current international practice.

(...)

The Secretary-General's report draws our attention to the possible follow-up means of those works on universal jurisdiction carried out by the United Nations. In particular, it is suggested that a Sixth Committee work group be created, as well as the possibility to submit the issue to the International Law Commission (ILC) for its handling.

Spain would support the submission of the issue to the ILC for the reasons below.

First of all, the ILC's handling of the issue would permit to locate the questions posed by the scope and application of universal jurisdiction within a sheer technical frame, which would reduce the incidence that political elements may have on the discussion.

Secondly, the issue presents a strong international legal component, which has already been the object of debate and conclusions at eminent academic fora, where remarkable results have been achieved, such as the so-called Princeton Principles and the works of the International Law Association and the Institut de Droit International, to which the Secretary-General's report refers.

Finally, it must be recalled that the ILC is currently in charge of the obligation *aut dedere aut judicare*, which, in spite of being conceptually different from the principle of universal jurisdiction, shows aspects in common with the latter. Likewise, the ILC is working on the issue of the immunity of State officials from foreign criminal jurisdiction, which also presents concurrent points with the exercise of universal jurisdiction. Consequently, the submission of the universal jurisdiction issue before the ILC would permit the systematic handling of all legal categories and institutions aforementioned, which are all interlinked somehow.

When appropriate, Spain might also support a joint solution or means, on the basis of the constitution of a work group within the Sixth Committee, responsible for the follow-up of the State practice analysis. Said work group would have the order to elaborate – with the Secretariat's support – a prompt and thorough report which will be submitted to the ILC by the Assembly. Subsequently, the ILC would carry out a deep study of the issue with a view to elaborating a document whose nature would have been previously determined. The document – relying on the invaluable contribution of such a highly qualified expert body as the ILC – would be logically subject to assessment by the General Assembly when necessary, adopting those steps deemed pertinent".

(Official Website of the Permanent Mission of Spain to the United Nations. Press Office > <http://www.spainun.org/pages/viewfull.cfm?ElementID=3072>).

IV. SUBJECTS OF INTERNATIONAL LAW

1. Self-Determination

Note: see VII.2 Colonies.

a) *Western Sahara*

On 31 May 2010, in response to a parliamentary question raised in the Senate, the Government declared the following as to the Sahara conflict:

“The Government maintains its position as to the settlement of the Western Sahara conflict within the United Nations framework pursuant to the various resolutions by the Security Council in this respect, to which the Government subscribes. The Government supports therefore the role of the UN Secretary-General’s Personal Envoy, who attempts to foster dialogue between the parties so as to achieve a just, lasting, and mutually acceptable solution which paves the way for the self-determination of the people in the Western Sahara within the framework of those provisions under the purposes and principles of the UN Charter.”

(*BOCG-Senado I*, IX Leg., No. 474, p. 22).

On 24 November 2010, during her appearance, the Minister of Foreign Affairs and Cooperation pointed out that:

“The recent events occurred in the Western Sahara, together with the existing constraints in MINURSO’s labour, will influence the renewal of MINURSO’s mandate undoubtedly, giving greater emphasis to the inclusion of human rights control and protection. Said position is the one to be supported by Spain in the event of consensus within the Group of Friends and was already expressed in Parliament through the motion passed a year ago by the Congress of Deputies. Spain currently contributes, and will continue to do so, to all efforts to settle the conflict, both by its support to the UN and by participating in joint initiatives together with France and the United States. Humanitarian aid to the Saharawi people in refugee camps in Tindouf will be maintained. There must be highlighted the need to support an enhancement of bilateral relations between Morocco and Algeria as a necessary condition for regional progress, a guarantee of stability in the Spanish/Maghrebian and the European/North-African areas”.

(*DSS-C*, IX Leg., No. 442, p. 6).

b) *Palestine*

On 7 June 2010, in response to a question raised by a deputy, the Government expressed the Spanish position as to the Operation Cast Lead:

“Spain has at all times required the enquiry of those allegations of violation of human rights and Humanitarian International Law in the Gaza crisis. Spain has not ceased to take pertinent action before the parties, at the highest level, to support the full application of UN Security Council Resolution 1860”.

(*DSC*, IX Leg., No. 447, pp. 990–991).

c) *Kosovo*

On 23 February 2010, the Minister of Foreign Affairs and Cooperation was asked during a plenary session whether Spain was to recognize Kosovo, to which he replied that:

“The EU External Relations Council included among its conclusions on Kosovo, passed on 18 February 2008, and I quote, that Member States shall decide, pursuant to their domestic practice and to International Law, on their relations with Kosovo. In the exercise of such a power – domestic power, but especially the application of our interpretation of International Law – there are only two means to accept the secession of a State – through the approval of the UN Security Council or through the approval of the parties. Therefore, Spain has maintained its position, the one of UN Security Council Resolution 1244.

Spain has not recognized Kosovo so far and shall not recognize it either, unless the two essential parameters are modified – the existence of an agreement between the parties or a Security Council Resolution. On another note, please read my article on the Palestinian State and you will notice no difference. Headlines are another matter, but the point is that the Spanish Government in matters of territory integrity and recognition of States always acts pursuant to International Law and practices”.

(*DSS-P*, IX Leg., No. 68, pp. 3499–3500).

In his intervention of 30 September 2010, the Minister of Foreign Affairs and Cooperation, Mr. Moratinos Cuyaubé, pointed out that:

“(..) [T]he opinion by the International Court of Justice in The Hague, which we respect, assesses whether the unilateral declaration of independence is pursuant to International Law or not, but does not mention either the consequences or the secession. Therefore, it is a part of the answer by the International Court of Justice in The Hague, which we respect, but which, politically, does not change either the due commitment to peace and stability or the European perspective of those countries in the Balkans”.

(*DSC-C*, IX Leg., No. 611, p. 27).

2. Recognition of Governments

a) *Honduras*

On 5 March 2010, the Spanish Government expressed its position as to the elections held in Honduras after the coup d'état:

“From the very first day Spain strongly condemned the coup d'état in Honduras and supported the restoration of constitutional order, the return of President Manuel Zelaya and that of State powers to their situation before 28 June.

The mediation role of Costa Rican President, Óscar Arias, embodied by the proposal of settlement known as the ‘San José Agreement’, officially submitted last 22 July, and by the final Tegucigalpa/San José Agreement (T/SJ Agreement), of 29 October, marked the exit path from the crisis. The conditions established in the said Agreement were, among others, the creation of a Government of unity and national reconciliation, and the creation of the Truth Commission (both provided in the

T/SJ Agreement). Likewise, the *de facto* authorities would have to resign during the transition period which has been opened recently.

Elections took place within an irregular context due to the *de facto* Government's systematic failure to comply with the conditions in the T/SJ Agreement. Consequently, a Government of national unity with the participation of representatives of President Zelaya could not be created, and the Verification Committee suffered constraints in the development of its functions. These circumstances, together with a series of anomalies (such as the fact that the legitimate President was kept against his will in the premises of the Embassy of Brazil under a police cordon), caused the election process to develop under special circumstances.

On another subject, we cannot ignore the fact that the elections proper were transparent and that the degree of participation registered was not inferior to the one registered in the previous presidential elections in 2005. A consequence of the elections of 29 November is the presence of a new actor to be considered, Porfirio Lobo. Mr. Lobo has declared his being in favour of a wide process of dialogue and national reconciliation".

(BOCG-Senado I, IX Leg., No. 436, pp. 28–29).

On 5 March 2010, having been asked whether they were to recognize the elections legitimacy, the Government declared that:

"From the very first moment, the Spanish Government has expressed its strongest support to the T/SJ Agreement (signed last 29 October, as an exit from the crisis), emphasizing the need for a comprehensive application of said Agreement, which, obviously, is not happening. In this sense, we regret that the *de facto* Government has systematically violated the terms and spirit of the T/SJ Agreement, having failed to promote the creation of a Government of national unity, and having rendered the so-called Verification Committee ineffective, the latter being unable to fulfil the functions assigned to it by the T/SJ Agreement.

The electoral process, culminated last 29 November, constitutes an important element. However, the last stage of such process should not be considered as the end of the crisis, but as the desirable beginning of a solution which should consist of – a) the creation of a Government of unity and national reconciliation (with the subsequent resignation of the present *de facto* authorities); b) a solution to the personal situation of Manuel Zelaya (kept by force in the Embassy of Brazil); c) the creation of the Truth Commission (provided in the T/SJ Agreement).

There must be taken into account the United States' remark that elections are not enough to normalize the situation. Specifically, they have publicly insisted on the observance of the aforementioned requisites, like Spain.

The Government deems that the uncritical acceptance of the present situation would convey a dreadful message to the international community – those electoral processes held with reasonable transparency within abnormal contexts contribute to reaffirm the subversion of constitutional order".

(BOCG-Senado I, IX Leg., No. 436, p. 29).

On 9 December 2010, in her intervention before the Senate's Committee of Latin American Affairs, the Minister of Foreign Affairs and Cooperation stated the following regarding the situation in Honduras:

“Which is the means to settlement? The securement of those conditions necessary for the President – removed from office through a coup d’état – to come back and an inevitable reaction and response against those people responsible for the coup d’état, a situation which is still pending. Spain has at all times searched for a possible solution to this forced situation through dialogue, and its position has been that of non-exclusion. However, I should like to convey to the Honourable Member that such a decision relies on the Latin American Community”.

(DSS-C, IX Leg., No. 451, p. 16).

V. THE INDIVIDUAL IN INTERNATIONAL LAW

1. Diplomatic and Consular Protection

a) *Consular Assistance*

In response to a question raised by a Member of Parliament on 11 March 2010 concerning action taken in order to improve the situation of those Spanish citizens serving sentence in Peruvian prisons, the Government reported that:

“Action taken by the Government in order to improve the situation of those Spanish citizens serving sentence in Peruvian prisons may be found in the Annex below:

ANNEX

REPORT ON THE SITUATION OF SPANIARDS ARRESTED IN PERU

1) NUMBER OF SPANIARDS ARRESTED, RELEASED OR TRANSFERRED

• Arrested as of 31/12/2008	177
• Arrested in 2009	125
• Released in 2009 (partial freedom, pardon, commutation, acquittal)	44
• Transferred in 2009	1
• Extradited in 2009	0
• Deceased in 2009	4
• Arrested as of 31/12/2009	253
• Arrested as of 03/03/2010	255

(...)

2) MOST FREQUENT DISEASES, MEDICAL CARE, AND CONTACT WITH LOCAL AUTHORITIES IN THIS RESPECT

(...)

- Thorough follow-up of the health conditions of Spanish inmates is carried out by the Consulate General, always respecting the inmates’ wish for confidentiality.

(...)

- Contact with penitentiary authorities concerning health matters is frequent, even if inmates are usually the ones who, on the occasion of the Consulate’s monthly visits, personally convey their health problems and ask for information on the requirements

necessary to apply for extraordinary aids. In year 2009, three inmates were granted extraordinary aids for medical treatment.

- Very often, it is the inmates' families that send packages of medicine to them through Ministry Central Services. These packages are delivered on the occasion of the Consulate's monthly visits, except in the event of emergency, when they are delivered immediately.

3) WHEN APPROPRIATE, CONTACT WITH LOCAL AUTHORITIES FOR THE SPEEDING UP OF TRANSFER PROCEDURES AFTER PRIOR AUTHORIZATION BY THE COUNCIL OF MINISTERS

Spain's Consulate General in Lima informs all inmates on the existence of the Spanish-Peruvian Covenant on the Transfer of Sentenced Persons of 1986. The number of inmates requesting transfer to Spain has increased, on the one hand, due to the enactment of Supreme Decree No. 010-2008-JUS, of the Republic of Peru, which reduces the requisites necessary for the transfer of foreign convicts and sets a deadline to have these applications processed in order to reduce the case examination procedure.

On the other hand, this is especially a result of the passage of Act No. 29305, of 22 December 2008, by virtue of which – within the framework of the transfer of cases to the inmates' countries of origin – a judge may decrease the amount due as civil redress or day-fine (a requirement under the 1986 Covenant), and even exonerate the inmate from said sanction, on the grounds of proof of insufficient financial means or humanitarian reasons.

At present, 39 transfer cases have already been approved by the Spanish Council of Ministers, but they are still pending authorization on the part of Peruvian Authorities. There shall be observed those legal conditions on the exoneration from civil redress and day-fine payment.

A positive factor is that of the increasing number of sentence commutations approved by Peruvian Authorities as a means to fight overcrowded prisons (...).

4) DIET, HYGIENE, HEALTH CARE AND SECURITY IN PERUVIAN PRISONS

(...)

The Consulate pays monthly visit to all inmates (except to those in prisons distant from Lima, who are visited once a semester), in order to provide them with the authorized periodic consular assistance. Periodic assistance is compatible with the increase in the assistance to particular inmates who have proved to suffer from chronic diseases and therefore need to cover medical expenses such as tests and medicine.

(...)

5) GEOGRAPHIC DISTRIBUTION OF INMATES

Prisons in Lima are more and more overcrowded and present worse conditions than prisons in other provinces. Peruvian penitentiary authorities decided to implement a policy for the transfer of inmates to prisons in other provinces from year 2004

onwards. The majority of inmates do not object, many of them having expressed their satisfaction after the change to provinces other than Lima.

However, said distribution has become somewhat difficult during year 2009, since several inmates have been transferred to prisons which cannot be visited by the Consulate on a monthly basis. In fact, by the end of year 2009, there were 253 inmates distributed into 16 prisons across the country. The Consulate has requested the President of the Peruvian National Penitentiary Institute (INPE) not to transfer Spanish inmates to prisons distant from the capital, since it hinders the consular task and the provision of appropriate consular assistance to these inmates.

Even if this geographic distribution certainly renders consular assistance more difficult, such a difficulty is overcome by a more intense dedication on the part of the consular workers responsible for the attention to inmates, as well as through the Honorary Deputy Consuls network and through volunteers (usually Spanish clergymen).

6) EU'S CONSULAR COOPERATION IN THE ATTENTION TO INMATES FIELD

Attention to inmates and its forms is still a major topic at EU consular cooperation meetings. The main issues addressed so far in conversations with both EU Member States and Peruvian Authorities have been as follows – the return of the inmates' seized passports to their corresponding Embassies (so as to prevent them from entering the black market); assistance to leave the country for those beneficiaries of sentence commutation or pardon; the dissemination of information on the judicial procedure and the documents required for the judge to decide the exoneration from the civil redress and day-fine payment in convicts' transfer cases; the improvement of confinement conditions in the so-called "carceleta" [small size prison for pre-trial detention] at the Palace of Justice, etc.

7) SPECIAL FEATURES OF LOCAL CRIMINAL LEGISLATION: PUNISHMENT, SENTENCES AND FINANCIAL PENALTIES ON DRUG TRAFFICKING

The Spanish Consulate does not offer legal advice to the Spanish detainees. However, it does provide them with a list of local lawyers. Anyhow, the Consulate monitors that the treatment received by inmates meets international minimum standards and respects human dignity.

(...)

CONCLUSION

As there may be seen, the intense follow-up and attention provided by the Spanish Government to the particular cases of the Spanish detainees in Peru encompasses all sort of actions, from the direct assistance to inmates to the contact with families and the provision of information to Spaniards in the said situation".

(*BOCG-Congreso D*, IX Leg., No. 410, pp. 164–167).

On 30 August 2010, in response to a Senator's question on the assistance to Spanish citizens overseas in the event of emergency or natural disaster, the Government stated that:

“All Spanish Embassies and Consulates feature Consular Emergency Contact Numbers which are operative round the clock, to which Spanish citizens may resort in the event of extreme emergency.

Likewise, the Consular Emergency Unit of the Ministry of Foreign Affairs and Cooperation has offered, since July 2008, a Voluntary Travel Record for those travelers who wish to register before a trip. The Ministry may thereby contact and inform those travelers concerned, and their families, in the event of emergency.

In addition, the Consular Emergency Unit has an alert device for emergency situations which sends text messages and e-mails to all Spaniards registered on said Travel Record who may be in an area of conflict. They will receive helpful assistance and advice to cope with the emergency situation”.

(*BOCG-Congreso D*, IX Leg., No. 457, p. 206).

On the same occasion, the Government replied to a question on the specific action taken by Spanish Embassies regarding the assistance to those nationals stranded at major international airports due to the halt and cancellation of flights occurred between 16 and 18 April 2010:

“During the halt and cancellation of flights, the Consular Departments of Spanish Embassies and Consulates in Europe and the US carried out the following action:

1. Uninterrupted phone assistance even during out-of-office hours, through Consular Emergency Contact Numbers, to both Spaniards overseas and foreigners who could not travel back to their countries of origin.
2. Direct assistance to the Spanish citizens calling at the Embassies and Consulates.
3. Updating of the information available on consular websites.
4. Identification and arrangement, when necessary, of alternative means of transport to travel to Spain.
5. Permanent contact with airlines to have immediate knowledge on the evolution of events and the schedule of flights.
6. Grant of refunds to those Spanish citizens who had requested them”.

(*BOCG-Congreso D*, IX Leg., No. 457, p. 206).

2. Aliens

On 5 April 2010, in reply to a question posed by a Member of Parliament on the number of foreigners who had been included into the Spanish Population Register between 2004 and 2009, as well as of those who had been removed from said Register during the same period, the Government reported that:

“As to the queries on the number of foreigners who were included into or removed from the Continuous Municipal Register between years 2004 and 2009, we have attached the data resulting from the Residential Variation Statistics (RVS), a statistical operation obtained from the Register Database of the Spanish National Statistics Institute [INE]:

	Year 2004	Year 2005	Year 2006	Year 2007	Year 2008
Registrations due to immigration	645,844	682,711	802,971	920,534	692,228
Cancellations due to migration	41,936	48,721	120,254	198,974	232,007

In year 2006, there was a noticeable increase in cancellations due to migration since cancellations due to expiration were included, for the first time, in the RVS. Cancellations due to expiration are a result of the changes introduced by Organic Law 14/2003, on Aliens, which affect Act 7/1985, Regulating the Local Regime Basis [*Ley 7/1985, Reguladora de las Bases del Régimen Local*]. The former thereby establishes that those non-Community aliens without a permanent residence permit shall have their residence registrations renewed every two years. In the event of failure to have them renewed, Town Councils shall declare said registrations as cancelled due to expiration. Figures for year 2009 will be available at the end of June on INE's website: www.ine.es".

(*BOCG-Congreso D*, IX Leg., No. 406, p. 228).

On 24 May 2010, in response to a question raised in Congress by a Member of Parliament as to the number of aliens who had been reunited between years 2005 and 2008, the Government stated that:

"(...)

1. According to the estimates obtained from the data available in the computer programme for the control of aliens used by the former Ministry of Public Administrations, the number of initial residence permits granted on the grounds of family reunification between 2005 and 2008 was as follows:

Year 2005: 74,919 permits

Year 2006: 97,759 permits

Year 2007: 128,161 permits

Year 2008 (as of 31 Aug): 65,861 permits

(...)

2. There follows a detailed breakdown of the different degrees of family relationship constituting the basis of those permits granted on the grounds of family reunification in 2008 (as of 31 August), the only year when said degrees were registered in the computer programme:

Spouse: 23,637

Minor/Disabled Child: 29,692

Minor under Guardianship: 130

Minor under Guardianship (adoption being the purpose): 325

Dependant Parent: 4,852

Other: 7,225

(...)

3. The number of aliens who obtained their initial residence permits on the grounds of family reunification between years 2000 and 2008 (up to 17 September)

and who caused the subsequent reunification of other family members amounted to 9,566 (...). The number of aliens reunited by other “aliens” whose initial Spanish residence permits had also been granted on the grounds of family reunification (between years 2000 and 2008, up to 17 September) amounted to 3,056 (...)."

(*BOCG-Congreso D*, IX Leg., No. 417, pp. 42–43).

On 31 May 2010, in reply to a query addressed in Congress by a Member of Parliament as to the reports on the situation of aliens detention centres in Spain, the Government declared that:

“Within the framework of European Project DEVAS, the Spanish Commission for Refugee Assistance (CEAR) paid visit to aliens detention centres in Madrid, Valencia and Malaga, and elaborated a report entitled “Conditions at Aliens Detention Centres in Spain – Conversations by the Wall [*Situación de los Centros de Internamiento para Emigrantes en España: Conversaciones junto al muro*]”, based on the analysis of those questionnaires and visits carried out there.

The aforesaid report addresses alleged episodes of mistreatment experienced by aliens during their detention periods at Madrid and Valencia Centres, respectively; however, such an accusation has not been proved yet. Nevertheless, as a result of the data on the report, enquiries were carried out by the Centres in order to determine the existence of criminal or disciplinary liabilities on the part of some of the civil servants. So far, there is no evidence supporting the actual occurrence of the reported episodes.

Among the episodes on the Report, only one was recorded, the one occurred on 29 May 2009 at the Centre in Madrid, on which action number 11143/2009 was brought before the pertinent Judicial Authority. Regarding the other alleged episodes of mistreatment, there is not either evidence of their occurrence or action brought in this respect. In the event of proof of any episode of mistreatment, the Centre's direction board shall contact the pertinent Judicial Authority immediately and without exception, starting the attendant enquiry.

Human rights are not violated at aliens detention centres. On the contrary, at aliens detention centres, respect for human rights is fully guaranteed by the members of the Spanish National Police Corps, as it is provided in Organic Law 2/1986, of 13 March, on Security Forces and Corps, specifically in the essential principles of action section.

Aliens at detention centres do not either suffer any mistreatment or degrading treatment whatsoever. They have, among others, the right to be visited by the lawyers assisting them with the proceedings, as well as by their relatives, friends and consular representatives. Likewise, they are provided with medical care and assistance. Any action taken as to the detainees or any change in their situation shall be reported to the Judicial Authority who ordered the detention.

Eventually, there must be highlighted that detention centres are the object of frequent visits on the part of various Inspectorates, not only the one of the Ministry of the Interior, on which the Centres depend, but also of other bodies, such as Judges and Prosecutors; Parliamentary representatives; the Ombudsman; and the Rapporteur on the Human Rights of Migrants of the UN High Commissioner.

On another matter, aliens detention centres undergo frequent works for the fitting-out, improvement and maintenance of their facilities, so that the latter achieve the adequacy imposed by legislation, bearing in mind their purpose.

Regarding their structural situation, aliens detention centres are regulated under the Aliens Act; its attendant Regulation; and Ministerial Decree, of 22 February 1999, “concerning the Rules on the Functioning and Internal Regime of Aliens Detention Centres”, which establishes, in an explicit and thorough manner, those requisites necessary for the detention at the centres, the rights and guarantees for all detainees, as well as the monitoring and inspection on said centres.

The aforementioned regulations allow that those aliens committing certain breaches be detained at said centres in order to guarantee the application of the corresponding sanction of expulsion from the national territory. As it has already been expounded, all detentions follow the corresponding judicial order, the assistance of a lawyer, a hearing with the detainee and the whole set of rights and guarantees granted by the judicial system.

Eventually, as to the detention Centre in Madrid, there is no prediction that it is closing down, since it is deemed to fulfil the purpose assigned to it by legislation”. (*BOCG-Congreso D*, IX Leg., No. 421, p. 42).

3. Human Rights

Note: see XIII.3. Human Rights

a) Spanish External Action

On 4 November 2010, in response to a question raised in Congress by a Member of Parliament on the Spanish External Action concerning human rights, the Government reported that:

“The promotion and protection of human rights constitutes one of the priorities of Spanish Government’s external action. This is, in fact, a transversal priority affecting and conditioning Spanish foreign policy, both at multilateral fora and in its bilateral relations with third countries.

As to multilateral fora, Spain is an important and active actor in all UN bodies responsible for the promotion and protection of human rights around the world. Spain is actively involved in the current 3rd Committee of the 65th Session of the UN General Assembly, at which there will be voted (between October and December 2010) more than sixty Resolutions on particular issues related to the human rights field.

Furthermore, since last September, Spain is one among the 47 elected Members to the Human Rights Council. In its observer role, the Spanish Government already played a very active role at this forum, at which it presented, along with Germany, an initiative in favour of the human right to safe drinking water and sanitation. During the last ordinary session of the Council, Session number 15th, Spanish representatives were very active, supporting agreed European stances on numerous highly sensitive issues for the International Community.

Likewise, it must be highlighted that Spain underwent, between May and September 2010, the Universal Periodic Review of the Human Rights Council. Said exercise was carried out with sheer transparency and in full cooperation with the Spanish civil society, which is very active in the promotion and protection of human rights.

Spanish Government's firm commitment to human rights may be seen in the financial effort carried out in this respect on its part. At present, Spain is the world's second contributor to the Office of the UN High Commissioner for Human Rights. In addition, Spain closely contributes to this body's Special Procedures Division concerning particular issues, being one of the most visited countries in the world.

Likewise, there must be mentioned the key part played by Spain in the Committees on the various human-rights-related Treaties, especially in those whose members are supported by the Spanish Government. For instance, such are the cases of the Committee Against Torture (CAT), among whose members there may be found Professor Fernando Mariño; the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW), of which Mrs. Soledad Murillo is a member; or the Committee on the Rights of Persons with Disabilities (CRPD), in which the Spaniard Mrs. Ana Peláez takes part. Finally, there must be mentioned both the candidature of Mr. Emilio Ginés for the re-election of the Sub-Committee on Prevention of Torture (OPCAT), and Mr. Jorge Cardona's for the Committee on the Rights of the Child (CRC), whose victories would contribute to a stronger Spanish presence in such an important area to Spain as the rights of children.

At the regional level, Spain has reflected its commitment to human rights in the action it has carried out through the EU, which provides numerous human rights instruments. The Spanish Presidency of the Council of the EU (during 2010's first semester) was a clear example of this, when Spain gave impetus to the effective implementation of EU Guidelines on Human Rights within the transition framework of the Treaty of Lisbon (...). A special mention is needed for the action taken and the Statements made on behalf of the EU in the context of the fight against death penalty, as well as for the "Manual" for LGBT's human rights promotion and protection on the part of Member States. Likewise, the following may be considered Spain's achievements, namely, the appointment of "Liaison Officers" at every EU Delegation in third countries to conduct and monitor relations with human rights defenders; or the development of a common position for the 27 Member States regarding the review of the UN Human Rights Council (HRC).

However, the priority granted by the Spanish Government to human rights does not only materialize in the fora specifically devoted to this task. The promotion and protection of human rights also affect and condition Spanish bilateral relations with third countries. Our Government features numerous instruments for that purpose.

Human-rights-related messages are conveyed at every bilateral high-level meeting between Spanish representatives and third countries. Likewise, Spain holds Regular Bilateral Discussions on Human Rights with the Governments of Cuba, Argentina, Mexico and Colombia, respectively.

Furthermore, there must be mentioned those public Statements and communiqués made by the Spanish Government in the event of serious occurrence, with the purpose of condemning certain behaviours or violations, and of celebrating positive

and remarkable improvements. By way of example, there must be highlighted the Interinstitutional Declaration published by the Spanish Government at the turn of August, upon learning of the imminent execution by lapidation of Sakineh Mohammad Ashtiani, an Iranian woman convicted for adultery in her country.

At the domestic level, reference must be made to two scopes of action which are directly managed by the Human Rights Office at the Ministry of Foreign Affairs and Cooperation. The first scope of action refers to the Spanish participation in election observation missions, sent to several countries under the auspices of the EU, the OSCE and the OAS. Specifically, the Human Rights Office delivers several courses on election observation throughout the year, and coordinates and chooses the Spanish participants in said missions. The second broad scope of action corresponds to the Programme for the Reception of Human Rights Defenders, which allows the reception of human rights defenders at risk in their countries of origin, provided that exceptional circumstances occur and that those criteria and regulations expressly envisaged are observed. Defenders are granted financial assistance and allowed to stay in our country for up to a year.

Finally, reference must be made to the Human Rights Plan approved by the Council of Ministers on 12 December 2008. The Government thereby assumed the proposal presented at the World Conference of Human Rights, held in Vienna in 1993, aimed at the elaboration of a National Plan of Action with the appropriate means to promote respect for human rights and to improve their protection.

In the case of Spain, the Human Rights Plan is an instrument which systematizes and organizes action taken by public authorities in every human-rights-related issue. A plan of such a nature constitutes an instrument for the promotion, coordination and assessment of the various actions foreseen or already implemented on the part of Government actors and its Administration. Likewise, it serves as a basis on which future policies and particular measures may be formulated.

The Human Rights Plan envisages 172 measures divided into two blocks, namely, external and internal action. Its major axes are the promotion of equality, non-discrimination, and the integration and guarantee of human rights. It is to fulfill the following functions simultaneously – (1) an advisory function concerning Governmental action in the human rights field; (2) an educational function to strengthen the social awareness of human rights; and (3) an assisting function regarding the control of Governmental action in the field”.

(*BOCG-Congreso D*, IX Leg., No. 492, pp. 118–119).

b) Cuba

On many occasions and in similar terms, the Spanish Government has expressed its stance on the human rights situation in Cuba and on the measures adopted for its improvement. By way of example, there follow some of these declarations. On 22 December 2009, in response to several parliamentary questions, the Government expressed its opinion concerning the measures adopted for the enhancement of the human rights situation in Cuba:

“(...) 1. The Spanish Government carries out a follow-up of the respect for individuals’ fundamental rights through different channels, as for instance, dialogue with Cuban Authorities on human rights issues.

2. The Government safeguards the full recognition and guarantee of human rights and, therefore, it addresses the issue before Cuban Authorities through the many channels of political dialogue open with said Government.

3. Respect for human rights is a common topic in the open dialogue held with Cuban Authorities. Hence the Foreign Affairs representatives of both countries have always dealt with these matters in a respectful and constructive manner.

4. The Government deems dialogue and cooperation as the best necessary means to effectively contribute to the achievement of democracy, political pluralism and the full recognition of human rights.

(...)

1. The Ministry of Foreign Affairs and Cooperation declares that the political prisoners issue and the human rights situation in Cuba constitute major points in the political dialogue and the dialogue mechanism on human rights held between Spain and Cuba. Therefore, said issues have always been addressed in a respectful and constructive manner in the talks between the Foreign Affairs representatives of both countries.

(...)

3. The Government, through the Embassy in Havana, keeps regular contact with all sectors of the Cuban civil society.

4. The aforementioned contact is permanent and constitutes part of the Embassy’s everyday work in Havana”.

(BOCG-Congreso D, IX Leg., No. 344, pp. 705–706).

On 3 March 2010, in Congress, after several Members of Parliament had asked about the situation of human rights in Cuba, the Government replied that:

“The Government carries out a close and well-timed monitoring of the human rights situation in Cuba, specifically of civil and political rights and freedoms. The monitoring encompasses the general evolution of human rights in the Island, Cuban participation in international bodies and fora, the signing of international agreements on the issue, cooperation with the International Community in the human rights field, etc. The Government pays special attention to those political dissidents at risk of being arrested and to those already imprisoned in Cuban penitentiary institutions.

Regarding those detentions carried out under the so-called “Law on Social Dangerousness [*Ley de Peligrosidad Predelictiva*]”, currently in force in the Cuban legal system, the Spanish Government defends, once more, the rule of law and the full recognition of civil and political rights. Therefore, the Spanish Government deals with the issue through the bilateral mechanism of political dialogue on human rights.

The Spanish Embassy in Havana keeps appropriate and regular contact with all sectors in the Cuban civil society, such as groups of dissidents, youth groups, sexual minorities and Cuban blogosphere users, so as to acquire comprehensive and reliable knowledge on the evolution of the human rights situation in Cuba. The Spanish Embassy, apart from monitoring particular cases, jointly works with other EU

Embassies, and addresses, along with Cuban Authorities, the situation of human rights in Cuba and the aforementioned particular cases through those dialogue mechanisms available in the human rights field.

The Spanish Government always promotes the defence of democracy and human rights in the regular talks with Cuban Authorities, showing its concern about those acts limiting the rights and freedoms of the Cuban society. Spain tries to reach consensus with the Cuban Government on those situations contravening the full recognition and guarantee of human rights, specifically on those cases of political prisoners suffering from health conditions, through those channels of political dialogue on human rights open with Cuba”.

(*BOCG-Congreso D*, IX Leg., No. 368, pp. 277; 281–282).

A few days later, on 8 March 2010, the Government answered another parliamentary question on human rights in Cuba, in particular on the situation after the decease of Orlando Zapata Tamayo, as follows:

“Thanks to our Embassy, the Government is aware of the existence of situations such as the ones previously described (...), showing its concern through its follow-up of the situation of human rights in Cuba. We hold meetings and keep contact with the entire Cuban civil society in order to acquire comprehensive and reliable knowledge on the situation in the Island.

The mechanisms of political dialogue on human rights shared with the Cuban Government allow us to address those issues related to the situation of human rights in Cuba, more specifically, to convey the interest of the Spanish Government in the situation of political prisoners, including those circumstances related to their health and the prison’s conditions.

(...) [A]t the last bilateral meeting on human rights, held on 18 February in Madrid, the situation of political prisoners, whose release was requested, was raised before Cuban Authorities.

The Cuban penitentiary system is also among the issues discussed with Cuban Authorities at said bilateral meetings on human rights. Within this dialogue framework, there are suggested measures for the improvement of imprisonment conditions at Cuban prisons, such as the visits by the Red Cross.

Upon learning of the death of Orlando Zapata Tamayo, the Government has publicly expressed its deep regret at his death and has urged Cuba to release prisoners of conscience and to respect human rights”.

(*BOCG-Congreso D*, IX Leg., No. 391, pp. 313–314).

On 23 September 2010, in reply to a question posed by a Member of Parliament on the measures to be adopted in order to solve the situation of a prisoner of conscience on hunger strike, the Government stated that:

“The Spanish Government has always promoted an open, frank and critical dialogue with Cuban Authorities. Within this framework of dialogue, we have expressed our concern about the situation of human rights in Cuba, in particular about the prisoners of conscience.

As a result of the agreements with the Cuban Government, there was constituted a bilateral consultation mechanism on human rights which meets annually. The existence of such a mechanism does not prevent the Spanish Government from conveying its opinion to Cuban Authorities regarding those improvements which should take place in the human rights field. Thus, at the sessions held so far within the framework of the mechanism of bilateral dialogue, the Government has transmitted to Cuban Authorities that they deem it appropriate that a delegation of the International Committee of the Red Cross (ICRC) may visit the prisons in Cuba.

The decision of the Cuban Government that all prisoners of conscience be released (within a four-month period running from the first week of July) is a sovereign decision by Cuban Authorities which lies within the framework of conversations with the Catholic Church (always supported by the Spanish Government).

Those persons applying for international protection, once they have been granted said status, shall be able to carry out any sort of working activity and, therefore, they shall be able to perform any paid job as well.

It becomes evident then that progress is reached through dialogue and, once more, there is proved the failure of those supporting policies of isolation and conditionality which appear as more and more ineffective. Likewise, within this framework, there may be found Guillermo Fariñas' free decision to stop his hunger strike".

(BOCG-Congreso D, IX Leg., No. 468, p. 137).

On 21 October, the following was highlighted by the Government in response to several parliamentary questions on arrests in Cuba:

"Thanks to the Embassy in Havana, the Government is aware of the situation of Sara Martha Romero, Luis Enrique Labrador and Eduardo Pérez Flores, who were arrested last 16 August and subsequently released at the beginning of September – with the exception of Mrs. Romero, who had been released before. Their arrests could be framed within the so-called "low intensity repression", according to the Cuban Commission for Human Rights, which refers to those arrests with a duration of minutes, hours or days, but which lack prosecution.

On another matter, there must be mentioned the liberation of Néstor Rodríguez Lobaina on that same date. Likewise, Julián Antonio Monet Borrero, Roberto González Pelegrín and Francisco Manzanet Ortiz, all of whom were on hunger strike, were released as well.

Therefore, the Government considers that the best means to put an end to this sort of arrests and to contribute to the enhancement and consolidation of human rights in the Island is to keep those channels of political dialogue on human rights with Cuban Authorities open, as their results are becoming more and more evident".

(BOCG-Congreso D, IX Leg., No. 480, p. 112).

c) *Israel*

On 24 February 2010, the Government replied to the question posed by a Member of Parliament as follows:

"The Spanish Government, which is particularly interested in and committed to the situation of human rights in Israel, actively participated in the session of the

Human Rights Council, at which the aforementioned State underwent the “Universal Periodic Review (UPR)”.

Subsequently, Spain expressed its concern about the unsatisfactory response before certain human rights issues affecting civil populations in Israel, the West Bank and Gaza.

Likewise, within the UPR framework, the Spanish Government raised the following particular questions:

a) Irrespective of the origin of and the liability for the serious social and financial crisis experienced in Gaza, what other measures are envisaged by the Israeli Government to alleviate the present obstacles affecting the access of humanitarian assistance to Gaza?

b) Israel has demolished the housing of numerous Palestinians in The Occupied Territories, especially in East Jerusalem, on the grounds of their lacking the corresponding administrative permits. What are the measures adopted by Israel to facilitate the acquisition of said permits on the part of Palestinians in order to put an end to this practice?

c) Israel keeps controlling the entrance and exit of persons, both in Gaza and the West Bank. What are the legal guarantees at the disposal of those community citizens who wish to access The Occupied Territories and whose entrance is denied? What are the legal guarantees offered by Israel to those community or Palestinian citizens who cannot leave Gaza?”.

(*BOCG-Congreso D*, IX Leg., No. 364, p. 15).

d) *Western Sahara*

Note: see VIII.2 Colonies

On 22 December 2009, the Government replied to several questions tabled in Senate concerning the Governmental action taken in relation to activist Aminatou Haidar as follows:

“Apart from medical care and assistance, the Government offered Mrs. Haidar three different possibilities, namely, the acquisition of the Spanish nationality on the grounds of humanitarian reasons; the renewal of her residence permit and the attendant family reunification with her children; or the acquisition of the asylum seeker/refugee status. She was the one to make the choice between the 3 options within the Government’s competence field. The residence permit had already been granted to her once on the grounds of humanitarian reasons, more in particular, due to health reasons.

(...)

The Ministry of Foreign Affairs and Cooperation informs that the persons in charge of the follow-up of Sahrawi activist Aminatou Haidar have been two civil servants at the Ministry of Foreign Affairs and Cooperation. Said civil servants, more precisely, the Head of the Minister’s Private Office and the Deputy Director General for North Africa, have visited Mrs. Haidar in Lanzarote on many occasions.

(...)

Mrs. Haidar's physical and mental integrity during her stay in Spanish territory depended at all times on her decision to keep her hunger strike. The Spanish Authorities provided her with medical care and assistance. The people responsible for Lanzarote Airport increased precautions, but at the same time they facilitated that many people could accompany the activist and convey their support and solidarity to her. Likewise, the Government urged Mrs. Haidar to stop her hunger strike and to continue with the legitimate struggle for her ideals through a different path".

(*BOCG-Senado I*, IX Leg., No. 403, pp. 238–239).

On 21 January 2010, the Government replied to a congressional question as follows:

"The Spanish Government deployed all diplomatic mechanisms at its disposal for the achievement of a solution which allowed Mrs. Haidar to exercise her freedoms of residence and movement, respectively.

The Spanish Government at all times sought to find a solution to Mrs. Haidar's situation, in order to achieve her returning to El-Aaiún. Spain took direct action with the Moroccan Government, the UN Secretary-General (Mr. Ban Ki Moon), his Personal Envoy for the Western Sahara (Mr. Ross), UN High Commissioner for Refugees (Mr. Guterres), and UN High Commissioner for Human Rights (Mrs. Navi Pillay). Support was sought on the part of the US and France as well".

(*BOCG-Congreso D*, IX Leg., No. 377, p. 398).

On 9 March 2010, in his appearance before the Congressional Committee on Foreign Affairs to inform on the situation in the Western Sahara, the Minister of Foreign Affairs and Cooperation declared that:

"(...)

(...) [O]n 17 December, after intense negotiations with Moroccan Authorities, Mrs. Haidar was able to return to El-Aaiún. Later, she was able to travel back to Spain, where, after having had both her Moroccan passport and her Spanish residence permit renewed, she participated, as you may know, in the demonstrations held last weekend on the occasion of the EU-Morocco Summit (...)."

(*DSC-C*, IX Leg., No. 485, p. 16).

On 21 June, in Senate, he added:

"The arrival of the Sahrawi activist in Lanzarote perfectly complies with current legislation. Last 13 November, she departed from a Spanish airport with destination to El-Aaiún. Upon being rejected by Moroccan Authorities, the application of Article 66 of Organic Law 4/2000, of 11 January, becomes possible. Since she was the holder of a Spanish residence permit, she was admitted into Spanish territory (pursuant to Article 25.2 of the aforementioned Law)".

(*BOCG-Senado I*, IX Leg., No. 490, p. 85).

VI. STATE ORGANS

On 31 May 2010, the Government spoke about the measures to be adopted in order to settle those claims submitted before the Ombudsman as to the lack of efficacy of the Spanish Foreign Service Offices Overseas, according to its annual Report for year 2008:

“The Government informs that there has been created a computer and communications infrastructure in order to make Consular Offices overseas faster and more efficient. Likewise, work is being carried out on the development of telematic management devices. At present, Consular Offices provide the following electronic procedures:

- Appointment-making and follow-up of the nationality application status.
 - Voluntary travel record of Spaniards overseas for their protection in the event of emergency.
 - Obtention of transit and short-term visas.
 - Long-term visas applied overseas.
 - Long-term visas applied in Spain.
 - Issuance of passports and safe-conducts to Spanish citizens”.
- (*BOCG-Senado I*, IX Leg., No. 474, p. 17).

VII. TERRITORY

Note: See VIII. Seas, Waterways, Ships

1. Airspace

a) Closure of Airspace

Regarding the events occurred in Spain on Friday, 3 December 2010, which led to the closure of the Spanish airspace and to the declaration of the state of alert in order to normalize essential air transport services, on Thursday, 9 December 2010, the Head of Government, Mr. Rodríguez Zapatero, explained the following to the Congress of Deputies:

“I am before this Chamber to explain the reasons why I decided to summon an extraordinary session of the Council of Ministers last Saturday, with the aim of adopting the declaration of the state of alert so as to re-establish normality in the provision of essential public air transport services. The declaration was formalized through a governmental Decree, which entered into force immediately after its publication, at 2:00 p.m., and which was the object of a communiqué to the Chamber’s Presidency at the end of the aforementioned session. The Government’s decision to declare the state of alert is grounded on the powers conferred upon it by Section 2 of Article 116 of the Constitution and by the concordant provisions in Organic Law, of 1 June 1981, on the States of Alert, Exception and Siege. The Government is aware of the fact that it is the first time in our democracy that said constitutional power is exercised. Therefore, and due to the serious consequences of alteration of the air transport service, which are the basis of the declaration of the state of alert, I have deemed it appropriate to appear on behalf of the Government to inform the Honorable Members about the situation.

With this purpose in mind, first of all, I will present those events occurred before and after the state of alert declaration (...).

(...) On Friday, 3 December, around 5:20 p.m., AENA [Spanish airports authority], together with the Ministry of Transport and Development, was obliged to make the

decision to close the Spanish airspace progressively so as to have it completely closed by night. This happened due to the impossibility to provide essential air navigation services as a result of the majority of air traffic controllers, both those on duty and those called upon, having abandoned their posts in a sudden, massive and simultaneous manner. All of them claimed health problems or, according to the terminology used in their field, physical or psychological incapability to perform their tasks pursuant to the security rules required (...), which led to the subsequent closure of airspace and the resulting cancellation of all air operations (...).

(...) After the closure of airspace, at 6:00 p.m., the Minister of Transport and Development, at the Ministry headquarters, appointed a crisis committee to follow the evolution of events and adopt appropriate measures (...). Civil Protection bodies were alerted and, eventually, the Military Emergencies Unit intervened. Both the Deputy Prime Minister and the Minister of Defence, together with other high officers, joined the crisis committee immediately.

(...) At 10:00 p.m., the Head of Government decreed that the Royal Decree-Law passed by the Council of Ministers that very same day be implemented. Therefore, the Ministry of Defence took charge, temporarily, of the management of the air traffic control service, which is AENA's responsibility. This happened at 00:15 a.m., after the regulation had been published.

Consequently, the Chief of Staff of the Spanish Air Force took over as the operational manager of air control towers by decision of the Minister of Defence. A unit of 190 military personnel has assumed, since then and so far, responsibility over the air control towers and centres, carrying out the mission under completely normal circumstances, with no remarkable incidents.

(...) I decided to call an extraordinary meeting of the Council of Ministers at 9:00 a.m. on 4 December (...). The Council of Ministers, supported by the special advice of the State Prosecutor and the State Attorney, passed Royal Decree 1673/2010, of 4 December, through which the state of alert was declared so as to normalize essential public air transport services, which was immediately published in the Spanish Official Gazette [*BOE*]. After the state of alert had been declared, both the Air Force chain of command and AENA issued notice to the whole of the civil air traffic control personnel requiring them to return to their shifts and work posts immediately on pain of penalty due to those liabilities resulting from failure to comply with the order. Consequently, at the 3:00 p.m.- and 4:00 p.m.-shifts the situation was completely normalized in the entire national territory, attendance rate being over 93 percent at control posts, a rate superior to the one recorded on ordinary days, the situation being stable from that moment on (...).

(*DSC-P*, IX Leg., No. 210, pp. 2–5).

In his intervention before the Committee on Transport and Development, on Tuesday, 14 December 2010, the Minister of Transport and Development, Mr. Blanco López, informed that:

“(...) [T]here existed conflict posed by the air traffic controllers’ attitudes, embodied in a planned strategy which threatened to get worse. Sabotage leaders had already established their roadmap, they had planned a long-announced show of strength.

Therefore, we keep on taking necessary and appropriate measures. Sabotage leaders, following their roadmap, decided to extort the State and the Spanish society to the most extreme extent. In such a belligerent attitude, on 3 December, in the early afternoon, a large number of those air traffic controllers on duty at the moment abandoned their work posts massively, stating physical or psychological incapability to fulfill their tasks. One hundred and fifty four controllers out of the 270 who were to be on duty during the afternoon shift starting at 3:00 p.m. refused to work. One hundred and eight controllers out of the 162 to be on duty during the night shift starting at 10:00 p.m. did not attend work.

They did not care about consequences at all. The most immediate consequence was that of our airports at a standstill, leaving more than 600,000 passengers stranded. Their attitudes forced the progressive closure of our airspace, pursuant to Eurocontrol's action protocols. The closure of airspace was carried out progressively, as air traffic controllers abandoned their work posts, with the aim of ensuring the security of operations. According to Eurocontrol's action protocols, measures to control attendance were required on the part of Air Navigation Central Services so as to provide the proper and safe monitoring of the air traffic flying through the Spanish airspace at that moment. In practice, the closure became effective fifteen minutes after being required, that is, the time necessary to inform all flights and guarantee the cancellation of those which were about to take off. The second measure consisted of monitoring all flights until their landings or until they had abandoned the Spanish airspace, in the case of overflights. From then on, the closure was complete and it was officially announced through international aeronautical communication channels. The closure process of our air navigation control centres and, consequently, of our airspace occurred as follows – at 05:50 p.m., Eurocontrol was informed about the closure of Madrid's airspace (...); at 06:20 p.m., local time in mainland Spain, the airspace of the Canary Islands was closed (...); at 08:00 p.m., Barcelona's was closed (...). I should like to clarify that after the airspace closure, a total of 14 transoceanic flights were able to fly, 5 of them landing in Madrid.

(...) [T]he situation was extremely serious, since the essential public air transport service had come to a standstill, hampering citizens' freedom of movement, the state of alert being thereby justified under Article 19 of the Constitution and Organic Law 4/1981, of 1 June. Therefore, the First Deputy Prime Minister announced a meeting of the Council of Ministers at 09:00 a.m. on 4 December and that, in the event of air traffic controllers not having returned to their posts, the Government would pass the Royal Decree to declare the state of alert.

The Council of Ministers met at the time announced. At that moment, approximately half of the controllers had attended work but refused to perform their tasks. At 11:00 a.m., AENA's lawyer and USCA [Spanish air traffic controllers union] representatives met again and were informed about the Government's intention to declare the state of alert. At 12:30 p.m., after the Council of Ministers' meeting, the First Deputy Prime Minister announced the passage of the Royal Decree through which the state of alert was declared. Around 02:00 p.m., notice was issued to all air traffic controllers, requiring them personally to return to their shifts and posts immediately, on pain of penalty due to those liabilities resulting from the failure to comply with the

order. From the 03:00 p.m.-shift onwards the situation was completely normalized in the entire national territory. The attendance rate reached more than 93 percent – incidentally, a rate higher than the one usually recorded on ordinary days. Therefore, at 02:15 p.m., by means of an aeronautic official publication, the reopening of Spanish airspace was announced (...)."

(DSC-C, IX Leg., No. 677, pp. 11–13).

After the Government's declaration of the state of alert through Royal Decree 1673/2010, of 4 December (Spanish Official Gazette, *BOE*, No. 295, of 4 December 2010), on 16 December 2010, the Minister of the Presidency, Mr. Jáuregui Atondo, requested that the Congress extended the state of alert until 15 January. In his intervention he stated as follows:

"The reason for my appearance today (...) is the announcement of the agreement adopted by the Council of Ministers last Tuesday, through which authorization of the Chamber is requested for the extension of the state of alert declared on 4 December.

(...) [I]n the afternoon of Friday, 3 December an extremely serious event took place in Spain. Air traffic controllers abandoned their posts in a coordinated and massive manner, which led to the airspace closure, brought airports to a standstill and left hundreds of Spanish and foreign passengers stranded. The Government exhausted all its possibilities of action in order to normalize air traffic, took all necessary steps and repeatedly urged air traffic controllers to fulfill their obligations. Finally, by implementing the measures provided in the Royal Decree-Law passed that very same day, the Government entrusted the Ministry of Defence with the powers to manage the air traffic control service. In the early morning of 4 December these measures had not normalized the situation at airports yet. Therefore, it was decided to make use of the possibility provided in Article 116 of the Spanish Constitution and, after the holding of an extraordinary session of the Council of Ministers on Saturday, 4 December, it was decided to pass Royal Decree of 4 December, declaring the state of alert for the normalization of the essential public air transport service, which was immediately published in the Spanish Official Gazette. The Congress of Deputies was informed immediately, as established by the Constitution (...).

Before the expiry of the constitutional fifteen-day period, taking into account the information provided by the Ministry of Defence and the Ministry of Transport and Development, the Council of Ministers met in an extraordinary session last Tuesday and agreed to request that this Chamber extended the declaration of the state of alert until 15 January. What are the reasons underlying this request? Essentially, the same reasons that made the Government declare the state of alert lead them now to request its extension, as provided in the Constitution. Since the circumstances leading to the declaration of the state of alert have not changed yet, there are still problems to overcome and normality in air navigation is partial and cannot be fully guaranteed (...).

Regarding the period of its extension, neither legislation on the matter nor the Constitution establish what the due duration of the state of alert shall be; what they both actually establish is that the extension shall be that being strictly necessary. And that is the Government's criterion, the criterion it has followed at all times

and the one to be followed. Taking into account the events occurred, and in order to ensure the re-establishment of full normality in the provision of air navigation services, the Government has deemed it necessary to maintain the adopted measures until next 15 January (...).

Put to the vote, the request for an authorization of the extension of the state of alert declared through Royal Decree 1673/2010, of 4 December, was passed with 180 votes for, 9 votes against and 131 abstentions.

(*DSC-P*, IX Leg., No. 214, pp. 2–5, 15).

b) Admission and Departure of Aircraft in and from Gibraltar Airport

In response to a written question submitted in Congress about whether the admission and departure of aircraft in and from Gibraltar Airport affected the Spanish airspace, the Government replied as follows:

“Spain, as a signatory country of the Chicago Convention on International Civil Aviation, shall comply with the Convention provisions regulating the admissions, departures or overflights of those aircraft which, regardless of their nationalities, come from any of the other signatory countries. In this sense, those aircraft landing and taking off at Gibraltar airport are subject to the same conditions of use of the Spanish airspace as the other aircraft.

Likewise, these aircraft are provided with the corresponding air traffic, control and/or information and alert services, in accordance with the airspace they are flying in. As to the exchange of aircraft traffic between Gibraltar and Seville’s Control Centre, conditions of such an exchange are regulated under a Letter of Agreement entered into by the providers of Air Navigation Services, which came into force last 2 August 2010”.

(*BOCG-Congreso D*, IX Leg., No. 459, p. 459).

In relation to the previous issue, the Government was asked in Congress about the agreement between the Spanish and British Governments as to the use of the Spanish airspace for the admission and departure of aircraft in and from Gibraltar. In this respect, the Government explained the following:

“In 1967, Spain established, in the airspace surrounding Gibraltar, the Algeciras Prohibited Area, LED 117, prohibited to all flights. As a consequence of the implementation of provisions in the Brussels Declaration of 27 November 1984, the Spanish Government created an area restricted to those civil aircraft landing or taking off at Gibraltar Airport in order to facilitate access of civil aircraft to said airport.

In 2006, as a consequence of the Agreement on the Gibraltar Airport, adopted at the Ministerial Meeting of the Forum of Dialogue held in Cordoba on 18 September of that year, Spain proceeded to transform the Prohibited Area into a new Area Restricted to civil aircraft flights. In both cases, decisions were published together with a non-prejudice clause regarding Spain’s position in the dispute on Gibraltar’s sovereignty”.

(*BOCG-Congreso D*, IX Leg., No. 483, p. 96).

2. Colonies

a) Gibraltar

On 15 June 2010, in his appearance before the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Deputy Permanent Representative of Spain to the United Nations reminded the Committee that:

“(...) My Government is fully committed to the decolonization process and, in particular, to the decolonization of Gibraltar, the only non-self-governing territory that a European State maintains within the territory of another European State. In this regard, the situation becomes even more relevant since we are referring to two Member States of the European Union and allies of the North Atlantic Treaty as well. As this delegation has stated in previous occasions, I reiterate that Spain has always wished to put an end to this colonial situation, as Spain is extremely interested in making progress in the negotiations on sovereignty.

Furthermore, it is necessary to remember that the situation of Gibraltar is of colonial nature and, therefore, it is incompatible with the object and principles of the Charter of the United Nations. This situation, which undermines the national unity and territorial integrity of Spain, is based on the Treaty of Utrecht, which is in force and accepted by Spain and the United Kingdom. Under this Treaty, Gibraltar’s only options are either to remain British or to become Spanish once again.

On another matter, the UN mandate with respect to Gibraltar has been clear since 1964. Through its annual decisions, it has always urged the United Kingdom and Spain to maintain bilateral negotiations in order to find a negotiated solution which takes into account the interests of the inhabitants of the colony. In accordance with this mandate, I must once again express my Government’s firm wish that conversations with the United Kingdom be renewed within the framework of the Brussels Process (...).

All in all, we oppose any attempt to have Gibraltar removed from the list of territories undergoing a decolonization process, for it would undermine the procedure established by the UN in favour of an alleged new, modern, constitutional relationship which is nothing else but a sort of ‘colonialism by consent’ where the subject of that consent is in reality an instrument of the Colonizing Power and not the colonized people, which in this case is the Spanish people, and does not comply with the doctrine or the content of UN resolutions.

(...).”

(Website of the Permanent Mission of Spain to the United Nations. Press Office > <http://www.spainun.org/pages/viewfull.cfm?ElementID=2574>).

On 6 October 2010, the Deputy Permanent Representative of Spain to the United Nations appeared again before the forum to discuss the same issue, declaring as follows:

“The doctrine of the UN General Assembly acknowledges through its numerous decisions and resolutions that the colonial situation in Gibraltar is contrary to the UN Charter, given that it undermines the unity and territorial integrity of Spain.

As the members of this Committee may well know, the principle of self-determination cannot be applied to the decolonization of Gibraltar. The principle of self-determination is applicable to the decolonization of colonized peoples. The present inhabitants of Gibraltar do not constitute a colonized people, but they were the major instrument in UK's colonizing process, used to dispossess native Spaniards of the land they inhabited. The UN doctrine on the decolonization process of non-self-governing territories is fully devoted to the defense of the rights of their native inhabitants instead of those of the colonizing territories.

Furthermore, in the case of Gibraltar, there are two overlapping disputes: the first one, that of sovereignty, which refers to the territory transferred by the Treaty of Utrecht, a sovereignty that should be returned to Spain in application of the UN decolonization doctrine. The second dispute refers to the Isthmus, since part of it was occupied by the United Kingdom without any legal basis. In the territory of the Isthmus, Spain should fully recover the jurisdiction illegally exerted by the United Kingdom.

Although on some occasions an attempt has been made to artificially convince this Committee that the decolonization and sovereignty disputes are two issues that ought to be examined separately, in the case of Gibraltar, the consolidated doctrine of the UN deems them as inseparable, given that both disputes, which violate the territorial integrity of Spain, constitute a clear contravention of the aforementioned doctrine.

The UN mandate with respect to Gibraltar has been clear since 1964, with annual resolutions and decisions repeatedly urging a bilateral negotiation between the United Kingdom and Spain to find a negotiated solution which bears in mind the interests of the inhabitants of the colony. Following this mandate, one more year the Spanish Government wants to express its firm determination to resume direct talks with the United Kingdom to that aim.

The members of this Committee will agree that there cannot be accepted the United Kingdom's and the Gibraltar local Government's attempts to use neither the new Constitutional Decree granted to Gibraltar nor the referendum as a justification of failure to comply with UN resolutions. Likewise, equally unacceptable are those attempts to have Gibraltar removed from the list of territories undergoing decolonization, thereby failing to comply with the procedure established by the UN.

Furthermore, it cannot be accepted either that the United Kingdom's commitment to the people of Gibraltar serves as a justification not to take up negotiations with Spain, interrupted since 2002. The United Kingdom shall not reach any agreements or understandings on the sovereignty issue against the wishes of the people of Gibraltar, as provided in the new Constitutional Decree. Needless to say that there cannot be accepted, whatsoever, those statements defining UN doctrine as anachronistic, its criteria as outdated and unreal, and the practices of the Decolonization Seminar and the Special Committee as distorting and manipulative. We cannot consider either the intention to preclude the principle of territorial integrity.

The Spanish Government keeps on working within the Forum for Dialogue on Gibraltar, fully committed to resolve those issues relating to local cooperation for the welfare and economic development of the inhabitants of Campo de Gibraltar and Gibraltar. In this respect, since the last Ministerial Meeting, held in July 2009, the

Forum participants have been working on the achievement of agreements in six new areas of cooperation, namely, police cooperation, judicial and customs cooperation, conservation, education, visas, financial services, taxes, communications and maritime security. These agreements will be formally entered into at the 4th Ministerial Meeting, to be held in Spain next December, and will certainly improve the welfare and quality of life of the people of Gibraltar and Campo de Gibraltar”.

(Website of the Permanent Mission of Spain to the United Nations. Press Office > <http://www.spainun.org/pages/viewfull.cfm?ElementID=3053>).

In response to various questions raised in Congress concerning the nautical charts created by the British Navy on which Spanish waters are delimited as British, the Government clarified that:

“The United Kingdom’s updating of its nautical charts, which now include the waters surrounding the Rock and the Isthmus of Gibraltar, whose sovereignty has been historically disputed between Spain and the United Kingdom, shall not modify the Spanish Government’s position – the same maintained by previous Governments – according to which Spain shall not recognize the United Kingdom’s sovereignty over other maritime spaces related to Gibraltar than those expressly ceded under the Treaty of Utrecht of 13 July 1713.

Furthermore, the fact that the United Kingdom, or any other country, includes spaces under Spanish sovereignty in its nautical charts shall not modify the Spanish sovereignty over said spaces. The Spanish Government has reiterated its position to the United Kingdom whenever appropriate.

(...) Nautical charts are documents to assist navigation which lack international legal character as to territorial boundaries, since they are created unilaterally by a particular country, being likely to find various nautical charts of the same area created by different countries.

(...) However, as it has been pointed out on several occasions, the updating shall not be interpreted as an acknowledgment of rights relating to the aforementioned maritime spaces”.

(*BOCG-Congreso D.*, IX Leg., No. 410, p. 157).

On 16 June 2010, before Congress, the Ministry of Foreign Affairs and Cooperation expressed its opinion on the impact of the legal action brought by the British Government against the designation of Site of Community Interest (SCI) made by the EU in the agreements of the Tripartite Forum between the United Kingdom, Spain and Gibraltar:

“In the framework document for future negotiations passed last 21 July 2009 by the Forum of Dialogue, in relation to the Spanish and British Sites of Community Interest in the waters surrounding Gibraltar, it is expressly declared, and I quote, that:

‘Designations of Sites of Community Interest (SCI) and EU Commission Decisions on the issue under Council Directive 92/43/EEC shall not have any consequences – they shall not cause any alterations– as to the sovereignty, jurisdiction and control over the waters to which they refer, waters which, consequently, shall not be altered’.

Nevertheless, the Government reserves the right to act as a result of the British action for annulment brought against the aforementioned EU Commission Decision”.

(*BOCG-Congress D*, IX Leg., No. 410, p. 179).

In response to another question raised before Congress on the soil filling works carried out by Gibraltar in the eastside of the Rock, the Government made clear that:

“Soil filling works began in 1984, with the dumping of solid waste in the eastside of the Rock, between La Caleta and the north of Catalans Bay. Between 1991 and 1995 they kept dumping waste, the present surface having been virtually reached by then (...). The Spanish Government expressed its concern before British authorities, who are responsible for the territory, and informed Community authorities about the infringement of conservation legislation perpetrated not only in the east coast but also in Algeciras Bay. Therefore, already in 1989, the Commission had started a complaint procedure against the United Kingdom”.

(*BOCG-Congreso-D*, IX Leg., No. 410, p. 141).

As to the soil filling works, the Government was asked before Congress about the extension of land which had been reclaimed from the Spanish territorial sea as a consequence of the enlargement of Gibraltar Airport on the Isthmus, which was not ceded to the United Kingdom by the Treaty of Utrecht. The Government replied as follows:

“Information in the hands of the Ministry of Foreign Affairs and Cooperation differs from the statements uttered by the Honourable Member. According to the data available, ongoing works in the Gibraltar port will not cause any damage to the shore (...).

(...) Said works are a consequence of the commitment reached by the three participants at the 1st Ministerial Declaration of the Forum of Dialogue, made in Córdoba on 18 September 2006, concerning the better use of Gibraltar Airport as to civil air traffic, so as to benefit the social and economic development of Gibraltar and Campo de Gibraltar. The commitment implies that the Declaration’s content shall apply pursuant to the International Community and EU’s requirements, procedures and practices, and acknowledges United Kingdom’s liability regarding the aeronautical security of the facilities.

With regard to the Isthmus territory on which the airport is located, the Declaration establishes that neither its text proper nor its attendant understandings shall ‘affect sovereignty and jurisdiction or control, and that every action or measure taken in application of said understandings, or as a consequence thereof, shall be interpreted without prejudice to the corresponding legal stances in the dispute on the sovereignty and jurisdiction over the territory on which the airport is located’”.

(*BOCG-Congreso-D*, IX Leg., No. 437, p. 923).

Likewise, the Government replied in Congress to several questions on the work of British patrol ships in the Spanish territorial waters surrounding Gibraltar:

“Waters near Gibraltar register an important activity of naval units of the Spanish Maritime Gendarmerie [*Servicio Marítimo de la Guardia Civil*], especially when there is an increase in irregular migration flows and in drug trafficking towards Spanish

coasts. Due to the strengthening of the tasks usually carried out by the patrol ships of the aforementioned Body to prevent and stop mafias' trafficking in human beings and prohibited substances, there are frequent sightings and encounters with maritime units of both the British Royal Navy and the Gibraltar Police.

Actually, given the high frequency of said episodes and the fact that the Spanish presence is not linked to the Colony but to the duties of the judicial and administrative police in the neighbouring maritime areas, there have not been issued any orders requiring a more detailed regulation of appropriate action to be taken by the Spanish Gendarmerie before these incidents other than the transmission of new occurrences and incidents while on duty, as the Body has always done.

The cooperation framework relies on the Forum on Gibraltar – which was created in year 2004 and is still in force and under constant improvement – where police cooperation constitutes one of the main areas of work, not being limited to the period of the Spanish Presidency of the European Union.

Thus, at the 2nd Ministerial Meeting of the Forum of Dialogue on Gibraltar, held in London in July 2008, there were established six cooperation areas, namely, conservation; police, judicial and customs cooperation; maritime communications and security; education; financial services and taxes; and visa-related issues. At the 3rd Ministerial Meeting, held in Gibraltar in July 2009, there was adopted a 'Framework Document' where there were defined the various measures to be taken in each cooperation area.

At the 11th Meeting of the Forum of Dialogue on Gibraltar, held in London in October 2009, whose main aim was to implement the various measures provided in the Framework Document, a schedule was agreed, together with the process for the implementation of a series of priority measures and objectives. As a consequence thereof, three technical meetings on customs, police and judicial cooperation have been held so far this year, the 4th Ministerial Meeting of the Forum of Dialogue being scheduled for the present year (...).

There is nothing new regarding the difficulties posed by the different interpretations made by Spain and the United Kingdom respectively as to those maritime spaces in Gibraltar ceded by Spain to Great Britain through the Treaty of Utrecht. These difficulties started to be noticeable during the first third of the 19th century, and lie within the Spanish-British dispute on sovereignty over Gibraltar, which has been active since then, undergoing its ups and downs.

The Government makes use of all appropriate diplomacy instruments available and takes advantage of any occasion derived from British actions to express before the British Ministry of Foreign Affairs its position as to the waters surrounding Gibraltar and the Isthmus".

(*BOCG-Congreso-D*, IX Leg., No. 437, p. 920).

In the same context, the Government replied before Congress to a question related to the serious incident occurred on 17 November 2009, when a patrol ship of Algeciras' Maritime Service belonging to the Spanish Gendarmerie, the 'M-22', sighted a patrol ship of the Royal Navy, the 'P-284', practising target shooting at a buoy with the Spanish flag located at approximately 7 nmi off Europa Point:

“As soon as the Ministry of Foreign Affairs and Cooperation had learnt about the situation denounced by the Maritime Gendarmerie [*Guardia Civil del Mar*] and had received the necessary documentation, the British Ambassador was summoned in Madrid for an explanation of the facts (...), against which the Ministry was to bring a complaint.

In his appearance, as it was reflected on the communiqué published by the Directorate-General of External Communications of the Ministry of Foreign Affairs and Cooperation of 20 November, the British Ambassador explained that it had been ‘one of the frequent shooting drills performed by the patrols of the British Royal Navy’ for which ‘they were making use of a red-and-yellow-coloured buoy as a target’. The Ambassador insisted that, in spite of its similarity, the buoy did not represent the Spanish flag. He made ‘his apologies for the misunderstanding and the lack of sensitivity shown on their part’.

(*BOCG-Congreso-D*, IX Leg., No. 417, p. 82; *BOCG-Congreso-D*, IX Leg., No. 428, p. 219).

b) *Western Sahara*

On 16 November 2010, in response to a question raised in Senate on the situation of the Western Sahara, specifically on whether the Government considered that former Spanish province number 53 had already been decolonized, the Minister of Foreign Affairs and Cooperation, Mrs. Jiménez García-Herrera, stated that:

“The Spanish Administration withdrew from the territory of the Western Sahara in February 1976. Since then, Spain has no longer been the administering power of the Western Sahara, and, therefore, it does not have any responsibilities there, as the Ambassador and Permanent Representative of Spain to the UN informed in his letter to the UN Secretary-General upon withdrawing from the territory. Therein he stated, and I quote, that “Spain is hereupon dissociated from any international responsibility regarding the administration of said territory”.

Both the UN and Spain deem that the territory of the Western Sahara is a non-self-governing territory, under Article 73 of the UN Charter. UN Resolutions clearly establish that the decolonization process shall be carried out through the negotiation and agreement of the parties, that is, Morocco and the Polisario Front, and shall allow the exercise of the right to self-determination by the people in the Western Sahara. This is the position supported by the Spanish Government, which is shared with the other countries within the UN framework (...).

Spain is no longer the administering power of the Western Sahara (...). Therefore, the UN do not see us as a party to the conflict, not even to the negotiations which should end with the decolonization process of the territory, provided that there exists an agreement between the parties and that the right to self-determination of the Sahrawi people is exercised. However, Morocco is actually the *de facto* administration in the territory, recognized as so by the UN.

As it is clearly specified in Corell’s Report of 22 [sic] January 2002, Spain unilaterally rejected the status of colonial administering power in February 1976. As it is acknowledged by the said report, to which I refer once again, since 1979, only

Morocco has administered – *de facto*, according to the report – the territory in the Western Sahara.

Thus, Spanish responsibility as to the Western Sahara is that of supporting Morocco and the Polisario Front in order for them to reach an agreement. Spain has contributed to this since the very beginning, both at the bilateral and multilateral levels, through its active participation in the Group of Friends of the Western Sahara, together with the United States, France, the United Kingdom and Russia”.

(*DSS-P, IX Leg.*, No. 100, pp. 5446–5447).

The very same day, the Minister, in response to another question, expressed the following about the status of the Western Sahara:

“(...) I should like to highlight that Spain does not have any responsibilities in the Western Sahara since 26 February 1976 (...). Once Spain’s position has been made clear, I should like to refer to the main issue at the root of the problem – the territory’s status and the positions of all Governments in the democracy period, which coincide with the UN’s position described above. It is a territory pending decolonization. There exists a decolonization process which claims the right to self-determination of the Sahrawi people. How, when and what are the options? , it all depends on the agreement between the parties and on the consensus with the United Nations. Since 1976 – the date of Spain’s withdrawal from the territory –, the interpretation made by the International Community and the Spanish position regarding the Sahara issue have coincided. Such a position has been shared by all Governments, including the Government of the Popular Party. The position has been strong and clear in both UN and OAU (current African Union) Resolutions, which is actually called ‘active neutrality’. Incidentally, various leaders of your party have in fact made use of the expression ‘active neutrality’, which coincides with the position supported by the Spanish Government (...).

First of all, the Western Sahara issue has to be settled through the exercise of the right to self-determination. This was clearly established in the advisory opinion delivered by the International Court of Justice [ICJ] in 1975, where it is literally expressed that the Court did not find any existing legal bonds which could modify the application of Resolution 1514 concerning the decolonization of the Western Sahara and, in particular, the application of the principle of self-determination, through the real and free expression of the will of the people in the territory. Secondly, the legal corpus applicable would therefore be UN General Assembly Resolutions 1514, 1541 and 2625.

In third place, the materialization of said principles occurs in the General Assembly and Security Council Resolutions on the Western Sahara. Specifically, the Security Council unanimously establishes those elements necessary for the settlement of the dispute by means of a formula which has remained constant in its Resolutions since year 2002 – a just, lasting and mutually acceptable political solution, which envisages the self-determination of the people in the Western Sahara, within a provisions framework pursuant to the principles and aims of the UN Charter. The Spanish position is identical to the Security Council’s, and reiterates the two essential elements for settlement – the agreement between the parties and the UN. In this context,

I should like to highlight the fact that, today, a meeting of the UN Security Council will be held concerning consultations on the Western Sahara issue. The holding of this meeting implies that the UN assumes its role as the negotiation framework, which fully coincides with Spanish position in this matter.

Consultations before the Security Council are held in chambers and will address two points – firstly, the UN Department for Peacekeeping Operations (MINURSO) will inform on the recent events occurred in the Western Sahara; secondly, the Special Envoy of the UN Secretary-General will present a report on the informal meeting recently held between the parties in New York.

In fourth place, the Spanish intervention has not been limited to encouraging the parties to determine the problem and identify the aforesaid solution – which, anyhow, would be a good position –; but Spain has also taken an active and constant part in the search for a solution. First of all, it has participated in and promoted the Group of Friends of the Western Sahara, which, irrespective of its name, gathers the permanent members of the Security Council and Spanish representatives, as you may know. Specifically, we have been working on the draft of the Security Council Resolution for the renewal of the MINURSO mandate. Secondly, we have supported the Personal Envoy of the UN Secretary-General for the Western Sahara, both politically and logistically. In third place, we have defended MINURSO's role.

Therefore, I should like to recall essential data. The Western Sahara issue is a problem which concerns the International Community, where the UN plays a key role. So states the doctrine of the ICJ, the executive of the Security Council and the action of MINURSO. Spain pays preferential attention to the dispute, as all Governments have done since 1976. Spain holds a realistic view, as requested by the Security Council, and aims at contributing to settle the dispute, to which is highly committed, since the Spanish policy on the Western Sahara is a national policy and a policy of principle, aware of our historical links with this people.

Once the Government's intervention and role in the legal status issue have been determined, there is nothing left to do but to reiterate the importance of the fact that Spain maintains dialogue with Morocco, since it constitutes an essential means to influence the process and to accompany the parties along the settlement. As dialogue between Morocco and the Polisario Front is the only path towards progress and settlement, and the parties do understand so, since they decided to hold direct meetings in spite of the serious events occurred".

(*DSS-P*, IX Leg., No. 100, pp. 5460–5461).

On 16 November 2010, in reply to a question raised in Senate as to the actions to be taken by the Government as a result of the incidents recently occurred in the Kingdom of Morocco and the occupied territories in the Western Sahara, the Minister of Foreign Affairs expressed that:

"(...) I should like to refer to the incidents recently occurred in the territory of the Western Sahara, to which the Government has paid special attention from the very beginning, being really concerned about the evolution of the situation both in the camp and in El-Aaiún. What had started as a socioeconomic claim of pacific nature turned into something more serious after a Sahrawi minor had got killed during a

police control – on which an investigation has been opened –, and ended up with the dismantling of the camp and an unknown number of victims, since none of the two parties have been able to provide definitive data.

However, let me explain to you what has been the Government's intervention in the field as a result of these deplorable incidents and the nature of our presence in the Western Sahara. There only exists one administrative office in El-Aaiún, which acts as the receiver of Spain's real estate in the territory. This office has always done everything in its power to guarantee the safety of the Spanish citizens in El-Aaiún. Furthermore, the Government, as a consequence of the worsening of the situation, gave instructions to the Spanish Consul General in Rabat that Spanish citizens be granted consular protection. Likewise, through a note – of which the Honourable Member may not be aware –, the Government has requested Moroccan authorities to provide them with information on the circumstances surrounding the death of a Spanish citizen born in El-Aaiún, Mr. Baby Hamadi Buyena. Under these difficult circumstances, the Government also called for the end of violence, for dialogue, calmness and restraint so as to avoid the suffering of the people in the territory and in order for normality to be restored as soon as possible (...).

From the very beginning of events, the Spanish Government asked Moroccan authorities to maintain the dialogue with those people responsible for the camp, to negotiate with them in order to find a solution. The Government also expressed that such a delicate situation required to be carefully managed, as they were dealing with a camp sheltering 20,000 persons.

Although there certainly exists a special link between Spain and the Western Sahara and the Spanish public opinion is highly sensitive regarding any incident occurred in the said territory, we shall recall that Spain is not a party to the conflict and that it is no longer the administering power in the Western Sahara, even if we offer them our sensitivity, our assistance and our commitment. From the legal perspective, Spain is not a party to the negotiations”.

(DSS-P, IX Leg., No. 100, pp. 5459–5460).

Two days later, the Minister appeared at her own request before the Congress Committee on Foreign Affairs so as to provide further information on the aforementioned incidents:

“(...) [F]rom the second week of October 2010, an increasing number of Sahrawi citizens – figures may fluctuate between 2,000 and 20,000 depending on the source –, many of them of young age, set up a camp of tents, the Agdaym Izik camp, 15 km away from El-Aaiún. Their claims, according to the statements made by the main leaders of the camp at that time, were to protest against the decline in their conditions of life. What had started as a claim of apparent socioeconomic character and pacific nature, progressively turned into something more serious as a result, first of all, of the death of a Sahrawi minor during a police control, and ended up with the dismantling of the camp last 8 November, which involved a series of victims, either deceased or injured, the actual figure being still unknown.

At the informal discussions held two days ago by the Security Council, the Special Representative for the Secretary-General for MINURSO declared that they did

not have any information concerning the aforesaid victims. He merely enumerated the figures provided by Morocco and the Polisario Front, which due to a lack of contrast are cautiously considered by the Government. In addition to the aforementioned events, there is also the impossibility to travel to El-Aaiún, together with the impossibility to get to the camps found by the media and the European political representatives, as in the case of the three Spanish Members of Parliament and a group of Spanish activists.

The Government has at all times paid full attention to and shown great concern about the evolution of events. In order to understand the Spanish intervention in the field, I deem it necessary to explain the reason why there is no Spanish representation in El-Aaiún. The special status of the territory of the Western Sahara, to which I will refer later, does not allow any sort of Spanish presence other than an administrative office, which acts as the receiver of Spain's real estate in the territory. This office has at all times done everything in its power to guarantee the safety of the Spanish citizens in El-Aaiún. Furthermore, as a consequence of the worsening of the situation, the Government gave instructions to the Spanish Consul General in Rabat that Spanish citizens be granted consular protection.

As I have already mentioned, the Government has officially requested Moroccan authorities to provide them with information on the death of a Spanish citizen born in El-Aaiún, Mr. Baby Hamadi Buyena, who is the only citizen of Spanish nationality identified so far (...). I should like to reiterate what the intervention of the Spanish Government has been. From the very first minute, we have shown the Moroccan Government our concern about the incidents taking place. Likewise, we have requested that an investigation of the facts be carried out, not only of what we have learnt about the Sahrawi citizen of Spanish nationality, but of all facts (...). Furthermore, we have certainly defended at all times the existence of dialogue between the parties and have actually contributed to it; (...) because we maintain a position which has remained constant throughout the years; Spain and its Government defend the right to self-determination of the people in the Western Sahara, they have always done so (...).

Eventually, needless to say that we have supported the media at all times, urging Morocco's Government to allow their entrance, since we were aware of the need for actual information on the issue (...). And this is our permanent request to the Moroccan Government so as to defend and safeguard fundamental rights, the request for an investigation, for the no use of violence (...).

(DSC-C, IX Leg., No. 658, pp. 3-4; 26-27).

VIII. SEAS, WATERWAYS, SHIPS

Note: See VII.2.a) Gibraltar; IX. International Spaces and X. Environment

1. Internal Waters and Territorial Sea

Note: See VIII.3. Fisheries

In response to a parliamentary question posed in Congress concerning the calls at Spanish ports of American vessels which might be used as floating prisons, the Government reported that:

“Authorization for calls at Spanish naval bases and commercial ports requested by warships and “Government vessels” of the US Army is pursuant to the provisions in Decree 25/1985, of 23 April, concerning the Regulations on the Calls of Foreign Warships at Spanish Ports and Anchorages and on their Passage through the Spanish Territorial Sea in Times of Peace; and pursuant to the Second Regulation of Decree PRE/262/2010, of 5 February, for the Approval of Regulations on the Calls of Navy Ships at Ports of General Interest.

Authorizations for the calls of these vessels are granted by the Ministry of Foreign Affairs and Cooperation, under Regulations 7 and 8 of the aforesaid Decree, PRE/262/2010, of 23 April. According to the aforementioned legislation, the route of this sort of vessels is carried out through the channels provided in the said legislation, being considered as classified information”.

(*BOCG-Congreso-D*, IX Leg., No. 417, p. 96).

2. High Sea

Note: See IX. International Spaces

3. Fisheries

Note: See IX. International Spaces and X. Environment

a) *Mauritania*

In reply to a parliamentary question raised in Congress as to the detention by Mauritanian Authorities of fishing vessel *Bahía de Portosanto*, with home port in Marín, in the Spanish region of Pontevedra, the Government expressed that:

“Last 20 August 2009, fishing vessel *Bahía de Portosanto*, which usually operates under licence pursuant to the Partnership Agreement EC/Mauritania, collided with a Chinese vessel flying the Mauritanian flag, the *Sultana III*, at a distance of 18 nmi off the port of Nouadhibou, causing the latter to sink.

From that moment on, and until its release on 25 January 2010, there has been a permanent follow-up of the situation of the vessel and its crew on the part of the Ministry of Foreign Affairs and Cooperation, the Manager of the Association of Vessel Owners in Marín – of which the fishing vessel is member –, and the Ministry for Environmental, Rural and Marine Affairs – specifically, through the Secretariat General for the Sea.

In this context there can be found, on the one part, those actions and meetings carried out by our Services overseas together with the Mauritanian Authorities of the Ministry of Fisheries. On the other part, there must also be highlighted the on-site intervention of the Secretary-General for the Sea at the meeting with the President

of the Islamic Republic of Mauritania, held on 5 November 2009, during which there was reached a commitment to search for a solution speeding up the process.

The vessel put out to sea again on 28 January 2010, heading for Las Palmas Port, where it was to be repaired”.

(*BOCG-Congreso-D*, IX Leg., No. 338, p. 486).

In response to a query posed in Congress concerning the detention of two Galician ships by Mauritanian Authorities, the Government reported that:

“The Government has been aware of the situation of fishing vessels *Loreamar* and *Lameiro I* since their detentions on 28 March and 1 April, respectively. Both ships were accused of having contravened Mauritanian regulations which establish a compulsory 0°C-limit for ship refrigeration chambers – refrigeration chambers on both ships registered a temperature between –5°C and –2°C, which is necessary to obtain ice from sea water for the preservation of fish. For the contravention, shipowners were convicted to pay a [€]25,000 fine [sic]. Said amount is deemed excessive since, on the one hand, it may be considered disproportionate to the minor error concerning temperatures; and, on the other hand, vessels had been operating for a long time without any problems as to refrigeration, the sanction being unforeseen.

As fisheries-related issues are EU competence, it was the EU Delegation in Mauritania that managed the problem at a first stage. Subsequently, given the sum to which sanctions amounted and the concern of the fishing sector, both the Secretariat General for the Sea of the Ministry of Environmental, Rural and Marine Affairs, and the Spanish Embassy had to intervene. Therefore, there started conversations between the Fisheries Attaché at the Spanish Embassy and Mauritanian Authorities in order to find a solution. Likewise, our Ambassador was received at his own request by the President of the Islamic Republic of Mauritania. Contact was kept at all times with the EU Delegation in Mauritania, which took pertinent action as well.

A Conciliation Commission took place last 15 April between the consignee of the detained ships and Mauritanian Authorities at which there was present the Fisheries Attaché at the Spanish Embassy, together with the shipowners. After the meeting, it was managed to reduce the sanction, which was finally set at [€]22,000 [sic]. Today, vessel *Loreamar* is already operating, whereas vessel *Lameiro I* will remain detained until the fine is paid”.

(*BOCG-Congreso-D*, IX Leg., No. 437, p. 861).

In response to a question posed in Congress concerning the situation of the Galician fleet after EU decisions on fishing licenses to operate in Mauritania, the Government stated that:

“The EU/Mauritania Fisheries Agreement was renewed on 1 August 2006, Spain being the State which benefits the most, since it relies on the highest number of licenses in almost the majority of fishing categories in the Protocol. At that time, Spain counted on 39 cephalopod vessels (most of them Galician) out of a total of 44 allowed, apart from all Category-Number-2 Licenses allowed (Patagonian Toothfish trawlers and longliners), most of them being Galician as well, and all Category-Number-3 Licenses

allowed, corresponding with small-scale fishing vessels, the majority of which were Galician too.

Subsequently, given the situation of the resource, in 2007, the Joint Commission reduced by 5 the number of licenses in the cephalopod trawlers category, which entailed a total of 39, out of which 34 were for Spain. As a result of the Protocol being renewed in August 2008, the European Commission agreed with Mauritanian Authorities to reduce by 25% licenses for cephalopod vessels in order to improve the situation of the resource (highly exploited), leaving a total of 32 licenses for Community vessels.

In the distribution among Member States there were considered the reasons of the low use of said category during the last periods of year 2007 and the first period of year 2008. Therefore, Spain was granted 24 licenses, Italy 4, Greece 3 – in previous periods having made use of other Member States' spare licenses –, and Portugal 1 – having previously made use of other Member States' licenses as well.

In all fishing periods since said renewal (August 2008), whenever there has been a waiting list for this category, Spain has requested other Member States' spare licenses in order to respond to its demand. This was the case of the July-August period in 2009, when 3 Spanish (Galician) vessels gained access to the fishery. In the event of the existence of further spare licences from other Member States, it is the European Commission that assigns them taking into account the number of applications submitted, under Council Regulation (EC) No. 1006/2008 of 29 September 2008 (Annex I).

In the event of absence of spare licenses, either because Member States have made use of all their fishing possibilities or because available licenses have been assigned to other Member States, the fishery shall be abandoned by those vessels in the bottom of the applicants list for the cephalopod category, pursuant to Royal Decree 1549/2004 regulating the access of the Spanish fleet to those fisheries in third countries under Agreements with the European Union. However, there are fishing periods when shipowners decide for various reasons not to make use of the fishery, leaving thereby spare licenses under this category.

Therefore, the Galician fleet is the one enjoying the majority of Spanish available licenses for fishing categories of its interest. Furthermore, it enjoys the totality of licenses granted to Spanish cephalopod vessels operating in Mauritania, not only those corresponding to all fishing periods but also those likely to be granted by another Member State".

(*BOCG-Congreso-D*, IX Leg., No. 480, pp. 68–69).

b) *Fisheries Inspectorate*

In response to a query raised in Congress concerning the Government's awareness of the possibility that fishing vessel *Eros II* be involved in actions of illegal, unreported, unregulated fishing, the Government claimed that:

"On 28 January 2009, the services of the Sea Fisheries Inspectorate – under the Secretariat-General for the Sea of the Ministry of Environmental, Rural and Marine Affairs – detected the presence of fishing vessel *Eros II*, with Panamanian flag, at the

port of Santa Eugenia de Ribeira, which led to start an immediate inquiry in order to take appropriate measures if necessary.

In that sense, according to the information available, which had been provided by the North-East Atlantic Fisheries Commission (NEAFC), the aforesaid fishing vessel had been seen on 29 February 2008 in the NEAFC Area, that is, in international waters, where it was carrying out unauthorized fishing operations near the so-called Josephine Bank, location N 37° 00.6 and W 014° 10.5. At that moment, the vessel name was *Furabolos* and the ship was flying the Seychelles Islands' flag. After this sighting, in March 2008, the fishing vessel was included into the provisional list of illegal, unreported, unregulated fishing (IUU) elaborated by the NEAFC (List A). As a result, the procedure envisaged in the NEAFC Scheme of Control and Enforcement was implemented.

In July 2008, within the framework of the Extraordinary Meeting of the NEAFC Commission, it was decided to remove the aforementioned vessel from IUU List A (Provisional) and to add it to List B, when it was learnt that the vessel had changed its flag into a new one (Panama's).

On 17 April 2009, the Secretariat-General for the Sea, of the Ministry of Environmental, Rural and Marine Affairs, sent a letter to the NEAFC in order to request the original document or a certified copy of the inspection report issued by NEAFC inspectors on 29 February 2008, in order to use it as evidence to initiate proceedings to impose a penalty. However, response on the part of said organization was not received until the end of February 2010⁷.

(*BOCG-Congreso-D*, IX Leg. No. 437, p. 543).

The Government reported the following with regard to a question raised in Congress as to the inspection of vessel *Eros II* at its arrival to the port of Ribeira:

“On 28 January 2009, the services of the Sea Fisheries Inspectorate – under the Secretariat-General for the Sea of the Ministry of Environmental, Rural and Marine Affairs – detected the presence of fishing vessel *Eros II*, with Panamanian flag, at the port of Santa Eugenia de Ribeira, which led to start an immediate inquiry in order to take appropriate measures if necessary.

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Aware of the aforementioned facts, on 9 February 2009, immediate action was taken concerning the measures to be applied in the event of vessels carrying out illegal, unreported, unregulated fishing in the North Atlantic Ocean, pursuant to the provisions in Annex XV to Council Regulation (EC) No. 43/2009, of 16 January 2009, fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in Community waters, and for Community vessels in waters where catch limitations are required. Therefore, the Port Authority at the port of Santa Eugenia de Ribeira was informed on the obligation to apply the measure concerning a ban on the supply to said fishing vessel and on the provision of other services of similar nature at the port, as it is established under the aforesaid Regulation.

For that purpose, on 10 February 2009, Galicia's Port Authority confirmed that the measure had been applied, having informed concession holders and the personnel in charge of the administrative authorizations for fuel supply at the port. Likewise, on 4 March 2009, both the NEAFC Secretariat and its Commission were informed on the presence of the fishing vessel.

Simultaneously, the Sea Fisheries Inspectorate, together with the unit of the Spanish Gendarmerie in charge of ports control [*Guardia Civil Fiscal*] and other Port Authorities, set up a surveillance and control unit for the monitoring of those activities performed by the aforementioned fishing vessel while at the port of Santa Eugenia de Ribeira. The unit has carried out permanent and regular inspections to date without evidence that fishing vessel *Eros II* has violated the ban on its supply and provision so far.

Likewise, as a consequence of the enquiry being carried out by the Sea Fisheries Inspectorate in order to determine, among other circumstances, the identity of shipowners, their nationality and the crew's, the unloading and transfer of goods, the reception of subsidies and, in such a case, the amount received, said Inspectorate is elaborating the corresponding report with all gathered data so that regulatory measures may be applied".

(*BOCG-Congreso-D*, IX Leg., No. 424, p. 52).

4. Ships

Note: See VIII.1. Internal Waters and Territorial Sea, IX. International Spaces and X. Environment

a) *Arrest*

In response to several questions raised before the Senate concerning the action taken by the Government, and its results, as to the assault to Spanish oil tanker *Virginia G* on the part of Guinea Bissau's Forces, the Government stated that:

"On 21 August 2009, vessel *Virginia G* – flying Panama's flag, but with a crew made up of Cubans and Cape Verdeans and a Spanish shipowner– was arrested 52 miles off the coast of Guinea Bissau. The *Virginia G* was arrested under the accusation of illegal sale of fuel. Guinean Authorities imposed a \$600,000 fine on it. The

tanker's shipowner, Mr. Gámez, refused to pay the fine claiming that refuelling was authorized. Guinea Bissau's legislation on fisheries establishes a strict control on this sort of operations in order to prevent illegal fishing. Likewise, Guinea Bissau's regulations provide that in the event of failure to pay the debt, the Fisheries Ministry may seize the tanker's cargo and the tanker proper if necessary.

On 16 November 2009, the shipowner's lawyer reported to the Spanish Embassy in Bissau that the tanker had been granted the mandatory authorization, which had led to a legal process establishing an injunction on the seizure of both the tanker and its cargo. However, they were awaiting an appeal against the injunction on the part of the Office of the Public Prosecutor.

Nevertheless, in spite of the injunction on the seizure of both the tanker and its cargo, on 22 November 2009, Bissau-Guinean soldiers began the unloading of the fuel under the auspices of a decree issued by the Secretary of State for the Treasury for the unloading of 436 tones of fuel.

– Current situation of the tanker under arrest:

The *Virginia G* remains anchored near the port of Bissau, in the area for arrested vessels, with the captain (of Cuban nationality) and some members of the crew (of Cape Verdean and Ghanaian nationalities, respectively) on board. Under the accusation of illegal sale of fuel, both the *Virginia G* and its cargo remain seized. The shipowner's lawyers appealed against the decree issued by the Secretary of State for the Treasury (ordering the seizure of the cargo), which violated the injunction granted by the judge. Judicial instances have already delivered orders for the return of the cargo on two occasions; however, Bissau-Guinean Authorities have not executed the orders to date.

– Obstacles to the release of the tanker:

It must be highlighted that the *Virginia G* is flying the Panamanian flag, which has prevented the exercise of diplomatic protection on the part of the Spanish Embassy in Bissau. The fact that none of the crewmembers are of Spanish nationality has also hindered the exercise of consular protection.

Likewise, it is necessary to take into account Guinea Bissau's political context. On the one hand, it is almost a failed State with extremely weak institutions, which hinders, on many occasions, the compliance with judicial decisions. On the other hand, Fisheries Authorities in Guinea Bissau did not show the least will to negotiate.

– Governmental action carried out so far for the tanker's release:

Since the *Virginia G* was arrested, the Spanish Embassy in Bissau has provided consular assistance to the shipowner and has established informal contacts with Bissau-Guinean Authorities in order to inform them on the matter.

The Spanish Embassy in Bissau has followed up the issue at all times, ensuring from the very moment of the arrest that the shipowner contacted a firm of lawyers that take charge of the case. Without prejudice to the fact that it is the shipowner proper, through his lawyer, the person that shall act before Bissau-Guinean judicial instances, the Spanish Embassy has emphasized before Bissau-Guinean Authorities the importance that the legislation in force be applied, and it has conveyed as well its trust that the Courts in said country act promptly and guarantee the rights of the

Spanish shipowner. Likewise, the Spanish Embassy in Bissau arranged the visas of those Cuban crewmembers residing in Las Palmas, thereby allowing their evacuation.

– Government's forecast on the conflict's final settlement:

Virginia G's release belongs to the context of internal, judicial and procedural matters of Guinean Authorities. Given the consequent scope of action and the fact that neither the tanker nor the crewmembers are Spaniards, the Spanish Embassy in Guinea Bissau is still in permanent contact with the shipowner to ensure he is duly represented before courts".

(*BOCG-Senado-I*, IX Leg., No. 435, pp. 61–62).

5. Underwater Cultural Heritage

In response to a query posed in Congress concerning the protection of underwater heritage, the Government stated that:

“1. There must be highlighted the following three general lines in the Addendum to the Inter-Departmental Agreement for the Protection of Underwater Cultural Heritage signed by the Ministries of Culture and Defence respectively – the representation of the Autonomous Communities in the Joint Commission for Follow-Up; the prioritization of those museums owned or managed by the Autonomous Communities for the housing of remains from archaeological activity; and the impetus, on the part of the Ministry of Culture and the Autonomous Communities, to those steps necessary to grant the corresponding authorization for field surveys and excavations.

2. The Addendum to the aforementioned Agreement duly establishes the participation of the Autonomous Communities and the collaboration framework for them and both Departments, which responds to the concern conveyed by the Andalusian Government in the past.

3. In the negotiation there have intervened the legal services and those Directorates-General at the Ministries of Defence and Culture which are competent in the matter.

4. The Covenants on the protection of underwater heritage entered into with the Autonomous Communities are undergoing acceptance proceedings on the part of these Communities, which are elaborating proposals for activities and processing the corresponding reports through their respective legal services.

5. This financial year the allocation of credits has been equal for all coastal Autonomous Communities.

6. Each Autonomous Community has its own timeline and guidelines for the elaboration of their respective underwater archaeological charts and, in this respect, each of them shall include its proposals in the aforementioned covenants.

7. As of 23 June 2010, there has been appointed the Scientific Committee for the Follow-Up of the National Plan for the Protection of Underwater Cultural Heritage, made up of experts on the matter, and which shall determine those actions to be carried out and prioritized under the National Plan.

8. The measures to reduce expenditure have not affected any of the projects underway”.

(*BOCG-Congreso-D*, IX Leg., No. 451, p. 102).

IX. INTERNATIONAL SPACES

1. Indian Ocean

a) *Hijacking of the Alakrana Vessel*

In response to a question posed in Congress, the Government declared the following as to the appraisal of the military action taken after the release of vessel *Alakrana* in order to arrest the pirates and recover the ransom:

“The Government acted responsibly at all times, with the only objective to release fishing vessel *Alakrana* and make its crewmembers return to Spain safe and sound. All this was in strict compliance with the legislation in force. The aforesaid military action started at the very moment when the Government received confirmation that vessel *Alakrana* had been hijacked, and it developed pursuant to the objective above – to release vessel *Alakrana* without putting the lives of its crewmembers at risk.

Thus, as the Minister for Defence explained last 25 November 2009 through an oral answer (File No. 180/788), no sooner had they learnt that the last pirate had disembarked than one of the helicopters on the Spanish frigates left for the protection of fishing vessel *Alakrana* in order to prevent it from being recaptured again. In the meanwhile, another helicopter, together with some speedboats, headed towards the two skiffs on which the last hijackers had left the fishing vessel in order to stop them.

So, in order to stop hijackers, helicopter number one opened fire on the bow, and, as hijackers did not stop, the helicopter opened fire on the skiff's engine in an attempt to disable it. However, given the short distance off the coast (1.7 miles), skiffs reached the coastline before being arrested, and their occupants disembarked and camouflaged themselves among a crowd.

I should like to highlight that the Government has provided detailed information on this action, both in Parliament and at several public appearances. In this sense, there must be recalled the press conference held on 18 November 2009 at the headquarters of the Ministry of Defence, where there appeared both the Minister for Defence and the Chief for the Military Staff, on the day after the release of fishing vessel *Alakrana*. Likewise, there must be pointed out Deputy Prime Minister's appearance before the plenary session of the Congress of Deputies last 25 November 2009 (File No. 210/056), as well as several oral questions answered by the Minister for Defence during her appearance, last 17 December, before the Committee on Defence of the Congress of Deputies in order to inform on the missions of Armed Forces overseas”.

(*BOCG-Congreso D*, IX Leg., No. 377, p. 342).

b) *Spanish Fleet Security*

In reply to a query raised in Congress concerning the protection under international legislation of those private security guards armed with war weapons on board of Spanish tuna seiners operating in international waters, the Government stated that:

“Act 23/1992, of 30 July, on Private Security, confers the security of private vessels upon private surveillance services. The presence of security guards on board the Spanish tuna seiners operating in the Indian Ocean aims, thereby, at the provision of services for the protection of persons and goods. These services shall take preventive measures against pirates, deter pirates’ attacks and, where necessary, repel them.

For that purpose, Royal Decree 1628/2009, of 30 October, modified certain provisions of the Regulations on Private Security, passed through Royal Decree 2364/1994, of 9 December. The former Decree also modified some provisions of the Regulations on Arms, passed through Royal Decree 137/1993, of 29 January.

Likewise, the Government developed the content of the aforementioned Royal Decree 1628/2009, of 30 October, through Decree PRE/2914/2009, of 30 October. Among these modifications, there may be found that of the use of certain sorts of armaments depending on the degree of threat in an area”.

(BOCG-Congreso-D, IX Leg., No. 447, p. 467).

With regard to the aforementioned issue, in response to a question posed in Congress concerning the funding of the private security services protecting the fleet of tuna seiners operating in the Indian Ocean, the Government claimed that:

“The hiring of the services offered by private security firms has been carried out by shipowners through contracts of private nature. Shipowners shall report this to the Ministry of the Interior pursuant to the Act on Private Security.

However, there must be highlighted that last 8 October 2010 the Government, in response to the commitment on this matter adopted in Parliament, passed Royal Decree 1257/2010, regulating the direct grant of subventions for the hiring of private security services on board tuna seiners operating in the Indian Ocean. The measures envisaged in said Royal Decree are devised for the entire Spanish fleet with authorization to operate in said Ocean”.

(BOCG-Congreso-D, IX Leg., No. 480, p. 82).

X. ENVIRONMENT

On 22 January 2010, the Government stated the following as to the Spanish situation before the commitments adopted by virtue of the Kyoto Protocol:

“Through the Kyoto Protocol, the European Union assumed the commitment to have its emissions reduced so that they did not exceed by 8% the emissions in the base year (1990) between years 2008–2012. The obligations of reduction were distributed among the Member States, the Spanish State having thereby the commitment that the average of its annual emissions between years 2008–2012 should not exceed by more than 15% the greenhouse effect gases (GEG) emissions in the base year. Therefore, the commitment period of the Kyoto Protocol has just begun. Spain’s predictions are the ones provided by the National Allocation Plan in respect of GEG Emission Allowances, passed through Royal Decree 1402/2007. They aim at preventing Spanish overall GEG emissions from exceeding base year emissions by 37% during the five-year period of 2008–2012. This aim fulfils the commitment adopted, since

the 22 percentage points over the +15% figure agreed at EU level shall be covered through drain and flexibility devices (2% and 20% respectively), pursuant to the Kyoto Protocol provisions.

The National Inventory of Greenhouse Gas Emissions, kept by the Ministry of Environmental, Rural and Marine Affairs, is the official source in the assessment of the degree of compliance with said commitment. In March 2009, the latest Inventory, corresponding to the 1997–2007 period, was published and submitted to the European Commission. The data corresponding to the first year of commitment of the Kyoto Protocol will not be available until January 2010.

Nevertheless, in March 2009, the Ministry of Environmental, Rural and Marine Affairs released the figures foreseen for upcoming years, based on the sector's studies on progression and taking into account those climate change mitigation policies adopted and foreseen. According to this data, the average emissions of GEGs in Spain, during the five-year period 2008–2012, would be over the Kyoto Protocol base year (1990) by 36.6%.

(*BOCG-Senado I*, IX Leg., No. 405, pp. 2–3).

On 16 February 2010, in her intervention before the Congress' Environment, Agriculture and Fisheries Committee, the Secretary of State for Climate Change, Mrs. Ribera Rodríguez, made a global appraisal of the outcome of the UN Conference on Climate Change (Copenhagen Summit) as to climate change and the National Climate Change Adaptation Plan:

“As you may know, the Copenhagen Agreement, the major political outcome of the Climate Summit, has proved to be clearly under EU expectations and what the EU deemed as necessary achievements. However, it does have advantages and relevant elements which are to be considered during upcoming months. Firstly, it is the first agreement having Heads of States participate directly in its negotiation and represents more than 80% of global emissions. Secondly, the Summit closed with an agreement to carry on the work of the two existing negotiation groups – the *ad hoc* groups on the consideration of future commitments under the Kyoto Protocol; and the *ad hoc* group on long-term international cooperation – which will present their results at the Cancun Conference, scheduled for December 2010.

As to the positive elements of the agreement, I should like to highlight three major elements – it has raised the climate change issue to the highest level, both in the Government and among the public opinion; it represents long-term political consensus; and introduces elements for an immediate start. From Copenhagen, we drew some conclusions on the important change undergone by the international scene. The major emerging economies are making an effort to strengthen their responses to climate change and to put them under the UN supervision; this is, however, a complex process. Likewise, we could observe how other countries questioned the legitimacy of those processes leading to the Copenhagen Agreement conclusion. Nevertheless, all this cannot make us decline the settlement of global problems within the UN framework.

I should like to point out the following elements of the Agreement – first of all, it is the first time that a 2°C increase in temperature is taken as reference point,

that is, the assumable risk is identified and subsequent action is linked to scientific recommendation. Furthermore, reduction objectives are adopted for all the economies in the industrialized countries and action commitments are taken for emerging countries, all these having to be specific and verifiable by the International Community. Finally, there have been established credit lines for the promotion of short and medium-term actions; provisions for the design of new governance structures; a system for the follow-up, revision and verification of actions; and a reminder on the need for immediate action in the most vulnerable countries having adaptation policies.

(...)

Regarding the National Climate Change Adaptation Plan, I will only make reference to it (...) to comment or linger on any other element you may find relevant. Let me remind you that the National Climate Change Adaptation Plan is a reference framework to coordinate the action of all public administrations, that is, a tool for generating information and, above all, for the integration of the most suitable measures fostering preventive adaptation against climate change into the planning, regulatory and management actions of the sector. It constitutes, therefore, an important tool for those people in charge of decision-making processes.

In September 2008, there was released the first follow-up report of the National Climate Change Adaptation Plan; the second follow-up report will be released in September 2010. The first work programme included lines of action as to the generation of climate scenarios – at present, we count on a first generation which is being updated and enhanced –; the assessment of climate change impact on hydric resources, both from the quantitative and qualitative perspectives, and the alteration of demands; the assessment of climate change impact on biodiversity and coastal areas, as these were considered the elements suffering the most from transversal effect.

In the second work programme under the National Climate Change Adaptation Plan the attempt was to widen the sectorial assessment on impact and vulnerability in relation to climate change of the sectors of tourism, agriculture, health and forestry. The programme also aimed at integrating the adaptation to climate change into the sector's legislation, through certain key elements such as the mobilization of key actors and the implementation of an indicator system. Consequently, research and development in this field have been enhanced, as well as the coordination of the relations with the various administrations in the field, where interesting outcome has been obtained, as far as I know.

In the Working Group on Impact and Adaptation to Climate Change, where the State and the Autonomous Communities work together, there can be found three main lines of work – a coordinated programme to grant research and development resources on the impact of and the adaptation to climate change; the implementation of common guidelines for the elaboration of adaptation strategies; and the establishment of a common forum for the exchange of information on the assessment of impact and vulnerability, where the various administrations will announce the main results of their initiatives”.

(DSC-C, IX Leg., No. 463, pp. 2–4).

XI. LEGAL ASPECTS OF INTERNATIONAL COOPERATION

1. Development Cooperation

a) *General Lines*

In her intervention before the Congressional Committee on International Cooperation for Development, held on 7 October, the Secretary of State for International Cooperation, Mrs. Rodríguez Ramos, presented the budget for official development assistance for year 2011 and informed that:

(...) Government's official development assistance, that is, State General Administration's, amounts to an overall €3,667.24 million. Therefore, there can be noticed a 918-million reduction in relation to 2010's budget. The cut chiefly affects the following budgetary allocations – €360 million off the Development Assistance Fund, €71 million off the contributions to development financing bodies, and €53 million off the budget of the Spanish Agency for International Development Cooperation (AECID). Altogether, the cut (€360+€71+€53 millions) sums up to €484 million for year 2011, which are to be deducted from the executed budget, and therefore from 2010's budget, of which €300 million have already been deducted, as it is established in the deficit control measures passed by the Government last May.

(...)

In 2011, the sum of those operations considered as official development assistance within the external debt management field amounts to €195 million. Said amount responds, as you may know, to the commitments to condone 100% of the debt contracted before 31 December 2003 by those countries included in the initiative to reduce the debt of highly indebted poor countries. Under Act 38/2006, regulating external debt management, this year, €195 million of the debt are to be condoned, which means €62 million off the amount foreseen for 2010's Annual International Cooperation Plan (PACI). Regarding EU compulsory contributions to official development assistance, these have increased from €821 million, established in 2010's Annual International Cooperation Plan, to €916 million in 2011. In this context, there is therefore a €95-million increase. Likewise, there can be recorded a €38-million increase for 2011 in the Microcredit Concession Fund due to an extra-budgetary outlay from past financial years (...).

Let me now refer to the two major cuts in our budget; first of all, to the one undergone by the current Development Assistance Fund. In year 2011 we will have to be more selective as to the contributions to international bodies for development, giving priority to those in charge of the management of humanitarian aid and those which have become strategic partners for Spanish cooperation in the last years (...). At the same time, – and I want to emphasize this, as it is important – we will find novelties. In year 2011 we will implement the Fund for the Promotion of Development, known as 'Fonprode', whose passage through parliament is almost over (...).

Let me now draw your attention to the budget of the Spanish Agency for International Development Cooperation, the AECID, which will manage a total amount of

€1,130 million in year 2011. These €1,130 million are made up of the AECID's budget proper (€880 million), the management of the Microcredit Concession Fund (€100 million), and the management of the Water Fund (€150 million). In the Agency's budget there is a 2.77%-deduction off the personnel expenditure pursuant to the current Royal Decree-Law 8/2010 through which civil servants' salaries are reduced. Likewise, several budgetary allocations are reduced – external cultural action in €3 million; transfers to international bodies in €7.6 million; running costs in goods and services in €12 million; the open and permanent call for subventions in €13 million, and those subventions assigned to the various entities and foundations associated with the Agency. In the latter, a linear cut of 15% has been applied to each of them. Our aim is to maintain those budgetary allocations for humanitarian aid, bilateral programmes and NGO's subventions, especially the sum assigned to those programmes and bilateral projects implemented by the Spanish Agency for Development Cooperation together with those countries which are a priority for Spanish cooperation (...).

Therefore, my Honourable Members, we will maintain those bilateral projects of the Spanish Agency for International Development Cooperation which have already been implemented or passed, those through which we have entered direct obligations with our cooperation partners, so that they do not feel the consequences of the reduction (...).

(DSC-C, IX Leg., No. 633, pp. 2–4).

In her intervention before the Congressional Committee on International Cooperation for Development held on 25 May, the Secretary of State for International Cooperation, Mrs. Rodríguez Ramos, reported on 2009's governmental contributions to multilateral bodies that:

“The main change in the last years is not the fact that multilateral aid has increased as a whole, but the multilateral contributions made by the Ministry of Foreign Affairs and Cooperation. By way of example, I should like to point out that in year 2003 multilateral cooperation represented 40% of official development assistance, totalling to €716 million. The figure breakdown shows three different expenditure blocks or categories – EU's compulsory contributions (€464 million), contributions to international financial institutions managed by the State's Secretariat (€173 million), and non-financial contributions by the Ministry of Foreign Affairs (€78 million). In the last years, the three multilateral cooperation blocks aforementioned have grown gradually. However, the major quantitative difference is related to the contributions to multilateral development bodies managed by the Ministry of Foreign Affairs and Cooperation, totalling to €1,292 million in year 2009. The reason why I am pointing out these figures is that, in our opinion, such a marked quantitative change shall bring about a new approach as to the accountability to the Congress of Deputies, the Senate, the Spanish citizenship. Hence our commitment through the Master Plan to submit this annual report before the Chamber.

(...)

First of all, I should like to remark the progress in multilateral aid concentration. In 2009, 75% of multilateral contributions were assigned to a total of ten international agencies and bodies pursuant to the goal set in the Master Plan, which establishes

80% of concentration among the first 10 payees. The World Bank is the first recipient, with almost one third of the overall budget for multilateral bodies. In the last years, development banks have become key elements in multilateral cooperation due to their capacity to mobilize funds at a wide scale. Currently, the World Bank is the body responsible for the channelling of the various global initiatives promoting Millennium Development Goals. The latest initiative is the global programme for nutrition and food safety originated in the commitment to fight against hunger entered at the G8 Summit held last July in L'Aquila (...). Spain's participation in the programme is specifically aimed at supporting national plans in Sub-Saharan Africa. Likewise, the World Bank manages other global initiatives within fields such as Health (Global Fund to Fight AIDS, Tuberculosis and Malaria), Education (Education for All-Fast Track Initiative), or Climate Change, as well as numerous fiduciary funds related to fragile countries or countries under reconstruction such as Afghanistan or Ethiopia.

There follow, in order of importance, the World Food Programme, Spanish cooperation major partner as to humanitarian aid; and, subsequently, the United Nations Development Programme (UNDP), with which we have closely been collaborating for years. These three agencies stand for 50% of the multilateral aid managed by the Ministry of Foreign Affairs and Cooperation, the remaining corresponding to UNICEF, the Regional Micro Small and Medium Enterprises Investment Fund for Sub-Saharan Africa (Regmifa), the Kyoto Protocol Adaptation Fund, IFAD, FAO, the European Union, UNFPA (...). In 2009, multilateral cooperation has been focused on food safety and health, sectors sharing 50% of multilateral funds. These have been followed by other sectors such as governance, economic development and education, each of them representing 10%, and the remaining 20% has been distributed into humanitarian aid, environment and gender issues.

Secondly, I should like to highlight the negotiation of strategic association agreements with our major multilateral partners (...). Spain will require these bodies to commit strongly, through their policies and their actions, to the principles of the Paris Declaration and the Accra Agenda. Said commitments will have priority over other and will be monitored as well (...).

In third place, in relation to the issue aforementioned, I should like to briefly refer to assessment and accountability. In 2009, Spain joined MOPAN, a network of bilateral donors jointly committed to assess the efficacy and capabilities of multilateral bodies. For Spain, being a MOPAN member entails a considerable reduction in transaction costs, replacing current bilateral approaches as to assessment by a common approach shared with the other members of the MOPAN network. From 2009 to 2013, the MOPAN network has planned to carry out the annual assessment of six different multilateral bodies in eight different countries, as well as of their own headquarters. In 2009, Spanish cooperation headed the network's assessment process in Guatemala, co-led it in Peru, and participated in the network's assessment processes in Mozambique, Senegal and Ethiopia, as well.

(...)

Eventually, the report refers to the sectoral guidelines in our multilateral cooperation (...). These are focused on the fulfilment of the basic development agenda, that is, the Millennium Development Goals. They also affect, especially, humanitarian

action and a priority objective for Spanish cooperation for which we have long been working together with the United Nations – the reform of the United Nations' system (...).

Major declarations of good intentions have become a reality so far, as our country has doubled the percentage assigned to official development assistance, from 0.23 in 2003 to 0.47 in 2009. This has entailed major yearly increases without which the percentage could not have been doubled – major increases such as the one from 2007 to 2008, when the budget for official development assistance was increased by €1,000 million. There is no other country within the International Community out of the 23 economies under DAC's voluntary and objective examination which has increased its official development assistance so significantly in such a brief period of time.

(...)

We will not attain 0.7 for 2012. We shall rearrange our programme taking into account the various growth scenarios in order to reach 0.7 in 2015. But, anyhow, we cannot relinquish 0.7 and, therefore, any reform in legislation – Cooperation Act would be a good opportunity – should establish a connection to it".

(DSC-C, IX Leg., No. 555, pp. 2–4, 15–16).

b) *Millennium Development Goals*

In her intervention before the Congressional Committee on International Cooperation for Development held on 28 September, the Secretary of State for International Cooperation, Mrs. Rodríguez Ramos, reported on the action carried out by Spain within the framework of the EU Presidency as to the revision of the Millennium Goals:

"(...) Spain is the country within the UN framework whose effort has been the strongest in the adoption of specific action to attain these development goals – the UNDP-Spain MDG Fund is an action without precedent within the United Nations framework. €700 million constitute an enormous budgetary effort for just one country, assisted by the biggest UN development agency, in order to work on each of these goals. The fund encompasses 128 programmes in fifty countries in five different regions in the world. They are helping and working with more than 20 million people, both directly and indirectly. Likewise, the fight against hunger and poverty places Spain among other leaders in the field of food security and agricultural policies.

(...)

(...) There can be found another essential aspect in our agenda, the effort made by both Spanish Cooperation and Government to achieve the third millennium goal – gender equality. Through UNIFEM, the predecessor of the present UN Women's Body – so eagerly-awaited –, Spain made a considerable effort to provide the third goal with an important budgetary capacity (...).

[H]ealth and Education matters have clearly determined our development policy. I would simply like to mention our connection and commitment to the Education for All-Fast Track Initiative, and also to other initiatives within the multilateral field, such as the Global Fund to Fight AIDS, Tuberculosis and Malaria (...)

I should like to highlight some aspects of the European stance. First of all, EU's firm commitment to have fulfilled the Millennium Development Goals by year 2015.

Many of the goals in the Millennium Development Agenda are attainable. Secondly, the acknowledgement of progress made, as well as the awareness of the work still to be done, especially on the MDGs behind schedule and on the most underdeveloped countries, most of which, unfortunately, are chiefly in Africa (...) In third place, the acknowledgment of interconnections between the Millennium Development Goals proper and, at the same time, their connections with human rights, gender equality, democracy, good governance, development, peace and security. In fourth place, the need for a wide approach, based on rights, to achieve the Millennium Development Goals; the importance of sustainable economic growth, which shall be above all inclusive, that is, able to distribute the benefits of said economic growth in an equitable manner, able to generate employment, to generate decent jobs which diminish the number of people living in extreme poverty and under degrading conditions.

Likewise, I have to convey EU's expectations as to obtaining specific results at this high-level meeting, arranged into five different lines of action, the first of which will be the reinforcement of ownership on the part of developing countries.

(...)

Secondly, focusing efforts. Both the EU and Member States have committed to pay special attention to those countries behind the schedule as to the achievement of goals. We shall adopt specific plans of action in some of these countries with special difficulties to progress in the achievement of all or some of the Millennium Development Goals.

In third place, both the EU and Member States have committed to intensify the policies impact on development and development goals through the promotion of policies coherence. The EU has committed to consider development goals in those polices which, despite not belonging to the development field specifically, may have an impact on developing countries.

In fourth place, the EU has committed to the mobilization of proper funding for development. The EU has reaffirmed its commitment to assign 0.7% of its GDP to official development assistance in year 2015 (...).

Likewise, under this commitment for the mobilization of resources, the EU commits to make important efforts in the field of innovative development funding, being this a necessary funding, additional to the commitment of 0.7% off our Gross National Product for year 2015.

(...)

Bearing in mind the big funding deficit in the Development Agenda, the Spanish Government, within the UN framework, undertook to support a tax on international financial transactions aimed at financing the fulfillment of Millennium Development Goals. This tax on international financial transactions – collected for the funding of a global public good and the fight against poverty and destitution – constitutes a global public good which shall, therefore, be the result of international consensus”.

(DSC-C, IX Leg., No. 616, pp. 6–8).

c) *Alliance of Civilizations*

In response to a parliamentary question on the progress made in the Alliance of Civilizations, the Government reported that:

“The Spanish Government has supported with determination the Alliance of Civilizations, whose development is to be summarized below. The number of countries and international organizations which back the Alliance has increased noticeably, encompassing 92 countries and 17 International Organizations in year 2010. Furthermore, the initiative has been institutionalized and consolidated within the UN framework, through the approval of a resolution on the initiative proper, adopted by general consent and co-sponsored by 98 countries.

Two international fora have been held until 2010 – the first one in Madrid, in 2008; the second one in Istanbul, in 2009. The 3rd Forum in Rio de Janeiro is to be held next May, and two more are foreseen for years 2011 and 2012, in Qatar and Austria respectively. Likewise, there has been passed the Alliance of Civilizations’ Regional Strategy in South-Eastern Europe, the European region where, unfortunately, the need for the implementation of devices – based on tolerance and respect for human rights – which guarantee peace and pacific coexistence is most palpable.

Among the projects carried out by the Alliance of Civilizations we may mention – Clearinghouses (Information Centres) on the major actions carried out in those fields being a priority for the Alliance of Civilizations (Youth, Education, Media and Immigration); the Rapid Response Mechanism, a platform for queries on the Alliance of Civilizations; “Silatech”, an initiative to promote the creation of jobs and economic opportunities for the youth; the Media Fund, whose aim is to foster the production of the resources aforementioned; finally, in 2010, the Centre of Information Exchange for the Integration of Migrants will be presented along with other projects at the Rio de Janeiro Forum.

All mentioned above reflects the increasing number of countries supporting the initiative and which consider it as a necessary instrument within the domestic and international fields”.

(*BOCG-Congreso D*, IX Leg., No. 447, p. 598).

In reply to a parliamentary query on the approval of the 2nd National Plan for the Alliance of Civilizations, the Government pointed out that:

“The 2nd National Plan for the Alliance of Civilizations, passed by the Government last 20 May, establishes the objectives of the Alliance of Civilizations, which expects to create a political space to fight the lack of understanding and communication between cultures and religions. Said space shall be of multi-polar, multilateral and global nature which favours the creation of common lines of action, both in the institutional and civil society fields, so as to reinforce mutual understanding between the various cultures, reaffirming the paradigm of mutual respect and appreciation between them. It aims also at counteracting the influence of intolerance and clashes; at reaching a balance between equality and diversity which fosters the social, economic and political integration of all citizens; at suggesting practical and preventive measures to help diminish the risks which extremism may pose to the world’s stability; and at promoting the idea that security is indivisible and that global cooperation is essential for international stability and human development.

It must be highlighted that the Alliance of Civilizations, an initiative supported by more than 100 countries and 20 international organizations, is included among

the priorities of Spanish external action, pursuant to its policy in favour of multilateralism in international relations, the commitment to human rights and action for peace and international stability. In the case of Spain, as a co-sponsor of the initiative, it actively promotes and participates in the Alliance's initiatives. As a consequence, the Spanish Government has approved the 2nd Plan for the Alliance of Civilizations".

(*BOCG-Congreso D*, IX Leg., No. 463, p. 36).

In his intervention before the plenary session of the UN General Assembly, held on 18 October, on Item 15 "Culture of Peace", the Permanent Representative of Spain, Mr. Yáñez Barnuevo, reported that:

"In 1998, the General Assembly proclaimed decade 2001–2010 the International Decade for a Culture of Peace and Non-violence for the Children of the World. The Assembly's declaration of 2010 as the International Year for the Rapprochement of Cultures, made at the initiative of the General Conference of UNESCO, was to be the culmination of the Decade.

As we approach the end of Decade, we can make a moderately positive assessment of the progress made by the International Community – including States, international organizations and civil society – in promoting a culture of peace, despite all the difficulties and challenges that have arisen in the world throughout that period.

(...)

The initiative of the Alliance of Civilizations, which has been led by the Secretary-General since 2005 and was sponsored by Spain and Turkey, has attempted ever since its creation to respond to the challenges posed by diversity and coexistence at the national and international levels. To that end, the ultimate aim of the Alliance is to promote understanding and cooperation among nations and peoples of different cultures and religions, and to counteract the forces that fuel extremism and endanger peace. All of this is based on shared universal values that inspire and guide the actions and spirit of the Alliance of Civilizations and are enshrined in the United Nations Charter and the Universal Declaration of Human Rights, among other basic instruments of International Law.

I am pleased to recall that, around this same time this past year, the General Assembly adopted by consensus Resolution 64/14, sponsored by 94 States, on the Alliance of Civilizations, demonstrating the broad political support enjoyed by the initiative. I note that the large Group of Friends of the Alliance already numbers 128 members, including States and international organizations alike (...).

Document A/65/349 contains the report recently submitted to the Secretary-General by his High Representative for the Alliance of Civilizations, Mr. Jorge Sampaio, and which the Secretary-General has in turn transmitted to the General Assembly. The report includes a summary of the main activities of the Alliance over the past year. As the Secretary-General points out in his introductory letter to the report: "In an increasingly interconnected world, often divided by cross-cultural tensions, the Alliance can play a significant role, as a bridge-builder and as a catalyst for... efforts aimed at furthering trust and cooperation among diverse cultures", (A/65/349, p. 1).

In that regard, developing the regional dimension of the Alliance of Civilizations is of great importance. The adoption of regional strategies – beginning in South-East Europe last year in Sarajevo and to be followed in the Mediterranean by the conference to be held in Malta in November – is crucial to translating the Alliance’s global objectives into concrete efforts tailored to the circumstances and realities of each region (...).

For its part, Spain continues to be fully committed to the principles and values of the Alliance of Civilizations and its special focus on action and achieving results. In the course of Spain’s term of office in the rotating chairmanship of the European Union in the first half of this year, the Alliance held a roundtable on the theme ‘The Alliance of Civilizations and City Diplomacy Initiatives’, in the context of the European Summit of Local Governments held in Barcelona in February 2010.

I should also like to point out the high-level meeting held in Cordoba in May on the theme ‘Religious Freedom in Democratic Societies’, whose main goal was to develop Article 17 of the European Union’s Operational Treaty, which sets out that the Union will maintain open, transparent and regular dialogue with churches and religious and other types of groups and organizations.

I am also pleased to inform the Assembly of the upcoming inauguration of the United Nations University International Institute for the Alliance of Civilizations, which will be based in Barcelona and serve as a meeting place and an ideal laboratory for undertaking the necessary task of developing and seeking the most effective ways of achieving the Alliance’s goals.

Lastly, I should like to refer to the report of the Secretary-General on intercultural, interreligious and intercivilizational dialogue (A/65/269). Among other things, the report refers to ongoing activities in connection with 2010 International Year for the Rapprochement of Cultures. The main goal is to demonstrate that diversity enriches humankind and is a source of creativity and innovation. In addition to some of the efforts carried out by the Alliance of Civilizations, the report covers the broad array of projects and actions undertaken by UNESCO, especially in the area of education, to promote dialogue and understanding among cultures, thereby demonstrating its complementarity with the Alliance of Civilizations. The recent renewal of the memorandum of understanding between UNESCO and the Alliance of Civilizations on the occasion of the Alliance’s third Forum, held in Rio de Janeiro, has made it possible to broaden cooperation between the two bodies.

(...)

However, reality shows that, despite the progress made, there is still much to do and many obstacles to overcome. The fact that the International Decade is coming to an end should not lead us to relax our commitment to promoting a genuine culture of peace throughout the world. The Alliance of Civilizations has proved to be a particularly useful tool for generating dialogue and understanding and for meeting the challenges of our times. The holding of the fourth Forum of the Alliance of Civilizations in Doha, Qatar, in late 2011 will provide us with new prospects to continue to work intensively and in a committed manner to promote a culture of peace that can genuinely and effectively overcome various perceptions through joint efforts in favour of our common humanity”.

(UN Doc. A/65/PV.33, pp. 6–7).

2. Assistance to Developing Countries

Note: See XI.1.a) *General Lines*, XI.4. Humanitarian Assistance, and XI.5. External Debt

a) *The Mediterranean*

In his intervention before the Senate's Committee on Foreign Affairs, held on 13 October, the Secretary of State for Latin America, Mr. De Laiglesia y González de Peredo, informed on Spain's foreign policy in relation to the Maghreb and the Mediterranean, pointing out that:

"(...) [D]uring the Spanish Chairmanship of the European Union, we worked intensively to give impetus to the Union for the Mediterranean (UfM). We considered then, and still do so now, that the UfM represents a qualitative leap in Euro-Mediterranean relations, which is a framework of great potential, but, due to its youth and its development context, the project still needs protection and support. Therefore, Spain, France and Egypt, as co-presidents of the UfM, decided to postpone the summit foreseen for June in Barcelone. Conditions for the success of the summit were not met, and the incident of the flotilla in Gaza, few days after the announcement of the postponement, was proof that the diagnosis was right (...).

The UfM, as a regional cooperation framework, shall find Mediterranean solutions and proposals to global challenges such as climate change, economic crisis, the construction of a new energetic paradigm or the guidelines to achieve a sustainable development and guarantee food security. Furthermore, the UfM shall consolidate an institutional architecture which allows the full participation of all partners. The Heads of State will decide on who is to assume the co-presidencies and, as you may know, we expect to relieve France from this function. We also expect that impetus is given to the Secretariat of the UfM in Barcelone.

(...) The Maghreb's key role in the Mediterranean region is not a secret. This area encompasses a great number of issues of strategic importance for us. Spain's main energy providers, secure and reliable, are in the Maghreb, if I may say so. It is also a key area in the transit of migratory flows having Europe as destination, Spain being the main entrance. In addition, the debate on the security in Sahel is becoming increasingly important. As all regional clusters, the Maghreb is a set made up of strong individualities, but there is a common tone on our part – either with Morocco, or Algeria, Tunisia, Libia or Mauritania, we maintain solid relations based on a constructive dialogue. We have entered treaties of friendship, good-neighbourly relations and cooperation with Morocco, Algeria, Tunisia and Mauritania, and we keep an agenda of encounters with the four countries aforementioned and with Libia as well.

Likewise, we have given preference to an advanced political dialogue with all of them, which has resulted in an intense agenda of ministerial visits and all kinds of bilateral contacts. HLMs (high-level meetings for sectoral and political dialogue) held with Algeria, Morocco and Tunisia confirm that there is political tune between the parties and they are proof, once more, of the intense content of our relations with these neighboring countries (...). For that reason, we have been developing a policy which helps the modernization process and reforms in the region, as well as the region's connections with Europe. We are convinced that the Maghreb-Europe

association is mutually beneficial in terms of economic growth, stability, political openness, improvement of social climate, support to institutions and response to potentially destabilizing challenges such as terrorism or youth unemployment. In this context, I should like to highlight that this commitment for modernization and reforms should not be seen as Europe's imposition, but it responds to a decision and an agenda agreed with our partners in the Maghreb (...).

Taking into account the general context of our relation, I should like to refer to some particularly relevant aspects which determine it. First of all, I will refer to energetic security, one of the most delicate and important issues. As my Honourable Members may know, Algerian gas imports, decisive for Spain, represent more than 30% of our consumption. Medgaz, the direct gas pipeline between Beni Saf (Algeria) and Almería, is to be inaugurated soon, which will increase Spain's energetic connections with the Maghreb. On another matter, Libyan oil provides us with 20% of our crude imports. In both cases, thanks to a policy of friendship and cooperation based on shared interests, these friend countries have become, as I said, our secure and reliable providers.

Another factor to be considered in our relations is the management of migratory flows and the problems posed by irregular immigration. Once more, cooperation between Spain and the Maghreb countries – especially those which are closer to our borders, such as Morocco, Mauritania or Algeria – becomes essential and necessary. I must also point out that, in this respect, cooperation and results are really satisfactory, in spite of being a delicate and complicated issue.

(...)

Promising economic perspectives, privileged political dialogue, friendly relations, exemplary cooperation in such difficult issues as migration or terrorism. This could be the initial balance of Spanish foreign policy in the Maghreb. However, I should like to highlight that our policy does not end here. We also maintain relations with the Maghreb in other multilateral scenarios. Once again, good political tune is present. I will only refer briefly to the two major scenarios – the European Union and the 5+5 Dialogue (...). Spain also interacts with the Maghreb, as I mentioned before, through the 5+5 Dialogue Group, a forum for dialogue and a flexible mechanism which is working efficiently, and which allows sectoral cooperation in issues so diverse as foreign affairs, defence, interior, public works and transport, among others. Spain is an active member of said dialogue, which gathers the five member countries of the Arab Maghreb Union, together with Spain, France, Italy, Malta and Portugal (...).

The rapport with Morocco may be initially based on good-neighbourly relations, but our bilateral relation goes beyond the hackneyed story of the two good neighbours who have no option but to understand each other. As I said before, there is also a European component, pursuant to the European Neighbourhood Policy, which Spain fully shares and supports. The European Union has been developing a policy aimed at reinforcing Europe's connections to those neighbouring countries more inclined towards reforms and the corresponding rapprochement to community legislation, as it is, especially, the case of Morocco. Spain intensively supports this process. We opportunely supported and boosted the concession of the advanced status, a substantial and qualitative improvement of the current EU-Morocco Association

Agreement. As a direct consequence of said advanced status, last 7 March, there was held in Granada the First EU-Morocco Summit, one of the major events occurred during our presidency of the European Union. It was also the first Summit held by the European Union and an Arab country, as well as the first one after the Treaty of Lisbon had entered into force (...). The Summit showed that Morocco has made a clear choice – that of turning its rapprochement to Europe into an essential dynamizing factor in its political, economic and social modernization.

However, apart from the European component, needless to say that the relation with Morocco presents an extremely important, fundamental, bilateral component (...). Last summer's border incidents have been overcome and, since last week, there is a new Spanish Ambassador in Rabat. This will make it possible to work together to strengthen and deepen in the bilateral relation. Said relation is framed within the Treaty of Friendship, Good Neighbourliness and Cooperation signed by the two countries, which, in addition, is based on the good understanding periodically shown on the occasion of HLM, at which both Governments revise the common agenda and determine future action. The last meeting took place in Madrid, in December 2008, in a fruitful atmosphere, and we are already working to hold the next as soon as possible, preferably during the first months in 2011.

This political tune has an important economic dimension. Spain is Morocco's second provider, client and investor, as in Morocco there are settled more than 600 Spanish enterprises of all kind, from big firms to SMEs. The volume of bilateral exchanges in 2009 amounted to more than €5,000 million, with a traditionally positive trade balance for Spain (...).

Migration issues constitute another major chapter in our relation. In this field, cooperation and good understanding are satisfactory as well, and last years' results are noticeable, even if there are still improvements to be done. For a start, we share the same philosophy as to the migratory phenomenon, since we consider that migration from the South is linked to the development in those countries. We share a comprehensive approach which joins the forces of origin, transit and host countries respectively. We both parties reaffirmed these principles at the Conference on Migrations and Development, held in Rabat in 2006, which resulted in the so-called Rabat Process, in which we both countries take part (...).

The same perspective on the phenomenon has been reflected in the cooperation in the management of legal migrants flows, aiming at the integration of the Moroccan community in Spain under safe and decent conditions. Moroccan migrants constitute the largest community of migrants from countries outside the EU, totalling 758,900 persons, according to figures from 30 June this year. Apart from this work on regular flows, there has been carried out a complementary efficient policy on the prevention of illegal immigration. It has decreased the high number of illegal immigrants from Morocco and has contributed to the satisfactory implementation of the agreement for the repatriation of illegal immigrants. On the occasion of the Minister of the Interior's recent visit to Rabat, last 23 August, it was decided to implement the agreement for the establishment of security centres and joint police stations in Tanger and Algeciras, as it happens in France and Portugal. This fact will reinforce, even more, cooperation in the illegal immigration field and in the fight against crime.

(...)

Another interesting aspect of this bilateral relation is the one related to cooperation for development and cultural relations. Morocco is one of the world's major recipients of Spanish official development assistance and the only country in the Maghreb whose gross bilateral aid exceeded €100 million euro in 2009. The aid has increased exponentially in the last years, being the result of the joint effort of numerous actors, namely, Central, Autonomous and Local Administrations, together with the civil society, represented by more than one hundred Spanish NGOs present in Morocco (...).

In the Education and Culture spheres, Spanish presence is also noticeable. Morocco is the world's first country in the rank as to the presence of an education network subject to our Ministry of Education. Said Primary and Secondary Education Schools are located across the entire Moroccan territory, especially in the North region, whose historical connections to Spain are the strongest. The Cervantes Institute has six centres for the teaching of the Spanish language and culture, which makes Morocco's network the second in the world, after Brazil, showing the great interest in the study of Spanish experienced in Morocco at present.

There is another aspect in the foreign policy which is of great concern for both countries – I am referring to the Western Sahara issue. Spain is a member of the Group of Friends of Western Sahara, together with the United States, France, the United Kingdom and the Russian Federation. We support the resolution approved by the Security Council on 30 April this year, which extends Minurso mandate for one more year. Spain is willing to invest its diplomatic capital to favour a just, lasting and mutually acceptable political solution which envisages the self-determination of the people in Western Sahara, within the framework of the principles and purposes of the UN Charter, to which Spain gives its full support (...).

(DSC-C, IX Leg., No. 410, pp. 3–7).

3. Immigration

Note: See XI.1.a) *General Lines* and XI.2.a) *The Mediterranean*

In response to a parliamentary question on those projects financed by the Fund for the Reception and Integration of Immigrants, the Government reported that:

“The ‘Fund for the Reception and Integration of Immigrants and their Educational Support’ is an instrument of financial nature through which, since year 2005, cooperation relations related to integration are established with the Autonomous Communities. Resources transferred through the Reception Fund to the Autonomous Communities during the period 2005–2009 exceeded €900 million euro.

Every year, the “Fund's” budgetary allocation is distributed among the Autonomous Communities according to objective criteria. Likewise, its management is carried out through cooperation agreements with each Autonomous Community. These include, as an annex, the plans of action establishing those measures for immigrant integration to be developed during the financial year.

Therefore, the decision of which projects to fund relies on the Autonomous Communities, depending on their territories' needs. Said projects shall be related to the lines of action determined in the Cooperation Framework for the Fund's management, lines which are provided in the Plan of Action to be submitted by the Autonomous Communities.

There must be highlighted the fact that in the allocation of the Reception Fund, pursuant to annuities management framework, preference has been given to action in the field of educational support according to the following percentages – 40% in 2005; 50% in 2006; 45% in 2007; 43% in 2008; 45% in 2009, the remainder being assigned to reception and integration measures.

The value of the Reception Fund certainly lies in the volume of resources which have been assigned to integration policies in the last years, but it also lies in the fact that the Fund has entailed the consolidation of a cooperation framework with the Autonomous and Local Administrations, which has acknowledged the important role of these Administrations as to integration issues”.

(*BOCG-Congreso D*, IX Leg., No. 447, p. 894).

4. Humanitarian Assistance

a) *Haiti*

In their interventions before a Congress Plenary Session, the Minister of Foreign Affairs, Mr. Moratinos Cuyaubé, and the Minister of Defence, Mrs. Chacón Piqueras, informed on the Government's action as to the earthquake in the Republic of Haiti, as well as on the participation of Spanish military units and State security forces in a humanitarian aid mission:

“(...) [W]ithin the framework of EU's rotating Presidency, Spain, fully coordinated with High Representative Catherine Ashton, assumed the European leadership in the response to the catastrophe. In this sense, last 14 January, Spain arranged the first international coordination meeting in Santo Domingo, and proposed the sending of a EU mission of preliminary assessment of damages. Likewise, Spain assumed EU's representation at the Conference in Montreal last 25 January. In both cases, Spanish Deputy Prime Minister, Mrs. María Teresa Fernández de la Vega, was present. Spain proposed to hold a conference on the reconstruction of Haiti, which will be held next spring in New York. Spain is also, together with France, one of the only EU Member States participating at national level in the director committee in charge of its coordination and preparation.

On another matter, Spain will coordinate action for the search, rescue and, should it be necessary, the evacuation of EU citizens residing in Haiti. From the very first day, the Spanish Cooperation put its logistics centre in Panama at the disposal of both Community partners and Latin American countries, to make transport of humanitarian aid for Haiti easier (...). Likewise, I should like to highlight that, last 25 January, the Council of Foreign Affairs, presided by High Representative Mrs. Ashton, agreed to send a Gendarmerie unit, to which Spain will contribute with approximately 20 or 40 members. In addition, within the MINUSTAH framework, 23 members of the

Spanish gendarmerie (*Guardia Civil*) will join the current contingent made up of members of the Spanish gendarmerie and the Spanish National Police Corps. Finally, the vessel *Castilla* set sailed for Haiti, with 450 crewmembers, to provide logistic and medical assistance, to which Minister Chacón will refer later.

(...)

As you may know, Spain has been participating in various political initiatives for cooperation and in other of military character in Haiti for more than twenty years. Before the earthquake on 12 January, Spanish Armed Forces had already intervened in Haiti twice, always under the auspices of the United Nations.

(...)

Honorable Members, this is the third occasion that Spanish soldiers intervene in Haiti, having travelled to that country to lessen the effects of a tragedy which has taken the lives of more than 200,000 people, has caused tens of thousands of injured and has left more than a million people homeless (...). Now, in response to the joint call by the Government of the Republic of Haiti and the UN Security Council, we have implemented a military device consisting of two stages. At the first stage, we immediately sent a contingent made up of 37 members from the Military Emergencies Unit (UME). Furthermore, military transport aircraft were provided for the transfer of rescue units and the material of other bodies. At the same time, at a second stage, it was decided to send a task force of 450 military personnel urgently (...).

On an extremely urgent basis, we decided to send to Haiti military personnel specialized in this kind of catastrophe to assist the victims and supply first aid materials and humanitarian aid. This task was assigned to a 37-member contingent from the Military Emergencies Unit, which had to intervene in what was the major priority at that time, the rescue of those buried under the debris. This has been the first time that land forces of the Military Emergencies Unit have participated in a mission outside our national territory. The Unit was chosen for its high skills in this kind of emergencies, in particular, in search and rescue operations (...).

On another matter, on an urgent basis as well, the Minister of Defence set Operation *Hispaniola* in motion, for the deployment in Haiti of a task force made up of military medical personnel, engineers, water purification experts and other personnel members to ensure the security of the deployment. Their mission is to support the country's authorities in tasks of humanitarian aid and assistance to the population, under the coordination of the UN and in cooperation with the means supplied by the AECID and other EU countries. Specifically, the duties assigned to our military personnel have been – the supply of medical care to the Haitian population, the removal of debris and the reopening of communication links, the production and delivery of drinkable water, as well as the distribution of humanitarian aid and the contribution to the region's security (...).

Honorable Members, these are the two military operations set in motion by the Spanish Government. On the one hand, a more reduced one, the one carried out by the UME, which was of immediate character and was focused on the removal of debris, rescue tasks, and medical care supply. On the other hand, the one carried out by the Spanish task force *Hispaniola*, of urgent character and longer duration, aimed at the assistance of victims and the reconstruction of the country. The cost of

both operations will amount to a total expenditure of approximately €18.8 million. Out of this sum, around 555,000 euro correspond with UME's performance, whereas the remainder, €18.2 million, corresponds with Operation Hispaniola.

(...)

Due to the extremely urgent character of this humanitarian operation, the Government had to act promptly. Our hasty intervention, however, cannot avoid the Government's commitment and obligation to appear before this Chamber in order for the Congress of Deputies to ratify the decisions taken, pursuant to Article 17.3 in the Organic Law on National Defence (...). The intervention of our Armed Forces in Haiti complies with the requirements provided in the Organic Law on National Defence for the authorization of international operations. Specifically, deployments have been carried out in response to the call by the UN Secretary-General, at the request of Haiti's Government, and have a humanitarian purpose (...).

(*DSC-P*, IX Leg., No. 137, pp. 41–45).

b) Pakistan

In his intervention before the plenary session of UN General Assembly held on 20 August, the Permanent Representative of Spain to the UN, Mr. Yáñez Barnuevo, referred to the humanitarian situation in Pakistan and pointed out that:

“(...) I should like to express the deep concern of Spanish people and leaders in connection with the recent floods throughout a large part of Pakistani territory. We are also very concerned about the tragic humanitarian situation being experienced by the people, the risk that it may worsen and, in particular, the loss of human lives. In this regard, we associate ourselves with the message of solidarity and support delivered yesterday by the Belgian Minister for Foreign Affairs on behalf of the European Union.

For its part, Spain has responded from the outset by contributing to international efforts to meet the immediate emergency assistance needs. Spain made an initial direct delivery of emergency humanitarian supplies on 4 August, which has since then been followed by others, including a flight that left yesterday. We also began making disbursements for emergency food aid, which were stepped up following OCHA's launch, last week, of Pakistan Initial Floods Emergency Response Plan.

Overall, Spain has thus far contributed almost €6 million, which is being distributed through disbursements to the World Food Programme, UNICEF and the Office of the United Nations High Commissioner for Refugees. All of this quite apart from the regular contributions Spain makes to the Central Emergency Response Fund, which has also been active since Pakistan was hit by the present crisis.

I can announce that Spain's contribution to the international emergency response effort will increase to a total of €11 million in the coming days. With this response, Spain is seeking to meet some of the priority needs that have been identified by the Government of Pakistan and the United Nations, namely the provision of drinking water and food for the affected population, as well as the protection of the most vulnerable, especially children.

At the same time, we have placed priority on the effective and coordinated delivery of our assistance, opting therefore for the multilateral track. We are channelling more than 90 percent of our assistance through United Nations agencies and under the auspices of the appeal issued by OCHA as the leading body for the coordination of international humanitarian assistance. Our response will continue to evolve as we obtain a more precise assessment of the scope of the damage and the needs of the population and the priorities established by the Pakistani authorities, both in the immediate emergency phase as well as the subsequent recovery, rehabilitation and reconstruction phases.

I should like to reiterate our message of full support for and solidarity with the people of Pakistan and to repeat that we stand fully ready to work in a coordinated way and to assist in the emergency assistance tasks being carried out by the international community under the coordination of the United Nations and in close cooperation with the Pakistani authorities.

Spain is committed to the stability and security of Pakistan now and in the medium and long term, and we will actively participate in the efforts that will be developed over the weeks and months to come with those objectives in mind, both within the framework of the European Union as well as the regional and global levels".

(UN Doc. A/64/PV.III, pp. 17–18).

5. External Debt

Note: See XI.1.a) *General Lines*, and XI.4. Humanitarian Assistance

In response to a parliamentary question, the Government informed on predictions as to the cancellation of Haiti's external debt owed to Spain:

"Last 8 July 2009, it was decided within the Paris Club framework to relieve Haiti's debt, since the country had reached its completion point, under the HIPC Initiative, according to the decision by the International Monetary Fund (IMF) and the International Development Association (IDA) of 29 and 30 June 2009, respectively.

As a consequence of said decision, the debt Haiti owes to Spain is to be completely cancelled. The debt is only commercial (from the export credit insurance on the part of the State), as there is not a Development Aid Fund (FAD) Debt.

(...)

Cancellation shall become effective when the bilateral agreement between CESCE – a Spanish society offering export credit insurance for SMEs – and Haitian authorities is signed. The agreement was submitted to Haiti for its signature last 28 October.

(...)

It is unlikely that the signature of the bilateral agreement takes place until institutions are able to work normally again. However, there must be highlighted that the debt to Spain (€27.65 million) shall be completely cancelled, and that they will attempt to speed up said cancellation process.

On another matter, you must know that Development Aid Fund Credits are subject to both, domestic and international regulations. As to international regulations, these

credits comply with OECD Consensus as well as with the Recommendations issued by this body regarding export credit. Among its Recommendations, there must be pointed out Recommendation of October 2008, on untying assistance to LDC and HIPC. Through this Recommendation, signing countries, among which Spain is found, commit to offer untied aid credits to LDC and HIPC. This has been the guideline followed in the Development Aid Fund (FAD) Credits to Haiti.

With regard to domestic legislation on Development Aid Fund (FAD) Credits, Second Transitional Provision of Act 38/2006, of 7 December, regulating the management of external debt, urges to renegotiate and, should it be appropriate, to cancel HIPC sovereign debt whose origin is in the Development Aid Fund (FAD) Debt incurred before 31 December 2003, within the framework of Paris Club's Agreements. Likewise, pursuant to the spirit of the provision, since the publication of said Act, only non-repayable funding has been granted to HIPC like Haiti.

Therefore, in compliance with domestic and international legislations, the policy on Development Aid Fund (FAD) Credits to Haiti is that of granting untied, non-repayable funding, thereby avoiding over-indebtedness and external imbalance".

(BOCG-Congreso.D, IX Leg., No. 368, p. 272).

XII. INTERNATIONAL ORGANIZATIONS

1. United Nations

On 10 June 2010, Permanent Representative of Spain to the United Nations, Mr. Yáñez Barnuevo, on behalf of the European Union, declared the following before the Committee on Contributions:

"The European Union deems that the current scale of assessments does not meet the fundamental principle of the capacity to pay anymore. The European Union would like to see that the scale applied for the financing of the regular budget actually reflects a fair and more balanced distribution of the financial liability of Member States.

The whole of the European Union contributes to the United Nations budget with a percentage which exceeds its contribution to the world economy. The joint contribution of EU Member States to UN regular budget keeps increasing, whereas the average of world growth has significantly exceeded EU's average growth. Said circumstance leads to the questioning of the capacity of present methodology to capture the changing nature of present world economy.

The European Union would like to draw the Committee's attention, especially, to the following aspects:

– Gross National Income converted into US dollars should remain the basis of the methodology for the preparation of the scale of assessments. In addition, the European Union considers the advisability of an annual adjustment of contributions based on the latest data available.

– The European Union is not convinced that an adjustment based on the debt burden thoroughly reflects the impact of external debt on a Member State's capacity to pay, as it has been highlighted in previous reports by the Committee on Contributions,

deeming this methodology element susceptible of improvement. In this sense, we confirm with interest the availability of data on Member States' public debts.

– The scale of assessments should take into account, in a more precise manner, those changes in the strength of the various economies in a global context. The European Union has supported, and will continue to do so, the need to grant substantial reductions in the assessments of the most vulnerable countries. However, there must be acknowledged that the most relevant economic achievements of emerging economies should be reflected more clearly in the methodology for the scale of assessments.

The European Union reckons that the adjustment on the basis of a low income per capita should remain an essential element of the methodology. Nevertheless, the European Union upholds that such an adjustment should be revised in order to take into due consideration the relative capacity to pay of those countries over the threshold and those below it, as well as to benefit, especially, those developing countries with more fragile economies.

Bearing this in mind, the European Union suggested during the last negotiations of the Fifth Committee that a multiple gradient be introduced in the adjustment under the concept of low income per capita, with a fairer distribution among Member States. This proposal would have relieved the most vulnerable economies, introducing the global strength of an economy as a relevant factor in the determination of the adjustment”.

(Official Website of the Permanent Mission of Spain to the United Nations. Press Office > <http://www.spainun.org/pages/viewfull.cfm?ElementID=2968>).

2. North Atlantic Treaty Organization

a) *New Strategic Concept*

In her intervention of 16 December 2010 before the Congress' Committee of Defence, the Minister of Defence pointed out that:

“The New Strategic Concept is the framework which will enable NATO's adaptation to 21st century's new context. In order to fight against new threats and other emerging challenges aforementioned, the Alliance requires better adapted structures. The New Strategic Concept seeks, therefore, to create a more efficient alliance, which is more flexible and more effective in crises management, able to convey security and stability where risk exists. The Alliance has to be adapted so as to ensure the protection of all allies from a comprehensive approach, with reformed structures and new capabilities. Our success depends on the quality of our work with the other actors and international bodies involved, especially with the United Nations, the European Union, and other actors, which has always been defended by Spain, as you may know. From a national perspective, I may state that new NATO fully corresponds with our view on what the Alliance has to be, an organization with a spirit of solidarity and a multilateral, cooperative and broader security approach. This will allow the rapprochement to the public opinion and the International Community on the

part of the Alliance. The document of the Strategic Concept proper reflects many of the contributions we expressed during its drafting. Specifically, the Alliance adopts a more global approach framed in the so-called cooperative security, acknowledges EU's predominant role as global actor (in its European dimension of Defence), and promotes partnerships as the decisive elements for regional security. As to the latter, we are especially satisfied with NATO's reference to Mediterranean dialogue, and with its recognition of the strategic character of the NATO-Russia partnership".

(DSC-C, IX Leg., No. 684, pp. 5–6).

b) NATO Operations

b.1) Kosovo

As to the presence of the Ambassador and Permanent Representative of Spain to NATO in the North Atlantic Council's visit to Kosovo, on 30 August 2010, the Government reported that:

"NATO remains neutral as to the recognition issue. At the same time, the Alliance maintains the military operation "Kosovo Force" (KFOR) to contribute to the maintenance of a stable and secure environment for everybody in Kosovo. Although NATO has not contributed troops since 2009, Spain still supports the allied consensus on this KFOR mission, based on the mandate in Resolution 1244 by the UN Security Council, which does not prejudice Kosovo's status.

The Government, within the NATO framework, has watched over the respect for the Alliance's political neutrality, also when it comes to the organization of the Atlantic Council's periodic visits to the various allied operations, including the KFOR. In this sense, the Ministry of Foreign Affairs and Cooperation gave appropriate instructions to our Permanent Representation to NATO so as to guarantee that the programme of the Atlantic Council's visit of 21 May to the troops deployed in Kosovo was strictly neutral as to the status issue.

Specifically, there must be highlighted that the visit of 21 May was not an Atlantic Council's visit to Kosovo, but a "visit to the KFOR"; that is, to an Alliance's operation, not to a country. This is also reflected on NATO's press releases, both previous and subsequent to the visit [See: www.nato.int>Homepage>Search>news>Council reaffirms KAFOR's commitment to Kosovo, 21 May 2010; and www.nato.int>Homepage>Search>Pressrelease>North Atlantic Council (NAC) to visit KFOR on Friday, 21 May 2010].

Likewise, special attention was paid to the design and execution of the visit's programme in order to avoid anything which could lead to a misunderstanding on the part of Kosovar authorities who might see it as political meetings with a Government. Therefore, NATO's press release mentions the names of Mr. Sejdiu and Mr. Kuçi, but does not refer to their positions. In addition, their meetings with the Atlantic Council took place at the KFOR Headquarters, not at a Kosovar Government seat. It was thereby made clear that those meetings were only part of the need of the Atlantic Council to get to know the context where the KFOR intervenes (as well as its contacts with the allied commands, those with representatives of other International

Organizations in the field, and with those representatives of the Orthodox hierarchy concerned about the security of Serbian historical and religious landmarks)".

(DSC, IX Leg., No. 457, pp. 177–178).

b.2) Afghanistan

On 24 February 2010, in response to a question posed before the Congress as to the number of military personnel deployed in Afghanistan, the Government expressed that:

"Since year 2002, when the first Spanish units arrived in Afghanistan with a contingent of 450 members, the number of military personnel deployed has been modified several times. Said modifications have been applied, among other reasons, for the adjustment of the Spanish contingent to the actual needs regarding the security, protection, reconstruction and development required by the mission.

(...)

Under this monitoring process and at the suggestion of the Defence Staff, last 23 September, the Minister of Defence requested the necessary parliamentary authorization for the sending of an additional stable military unit of 220 soldiers. This additional unit is contributing to the increase of security in the Badghis province and to the support of OMLTs and the tasks of the Spanish Agency of International Cooperation for Development (AECID). Likewise, it has carried on the work of the battalion supporting the last electoral process held in the country.

At the same time, within the framework of the new allied strategy for Afghanistan, last 17 February 2010, the Government requested parliamentary authorization for the sending, under the ISAF mission, of 511 soldiers and 40 members of Spanish Gendarmerie. This new contribution consists of three new Operational and Mentor Liaison Teams (OMLTs), a maneuvers unit, logistic protection and support and reinforcements for ISAF Headquarters.

Likewise, there must be highlighted the contribution of 40 members of the Spanish Gendarmerie who will be in charge of the military training of Afghan police forces. Subsequently, a Police Operational and Mentor Liaison Team (POMLT) will be organized. This year 2010, Spain will thereby have 2000 Afghan soldiers trained, that is, one out of twenty of those necessary to attain ISAF mission's global objective for this year, which amounts to 40,000 soldiers".

(BOCG-Congreso D. IX Leg., No. 368, p. 253).

On 16 December 2010, the Minister of Defence intervened before the Congress' Defence Committee to analyze the situation of the Spanish Mission in Afghanistan and announced that:

"NATO Summit in Lisbon marked the beginning of the end for our mission in Afghanistan. The Afghan people shall assume the control of their country progressively, through an irreversible process. We will accompany them along this way and will leave once our objectives have been reached. However, as the Head of Government said, it is important to understand that there are not deadlines for the withdrawal of our troops, since the most important thing is the achievement of those objectives leading us to Afghanistan".

(DSC-C, IX Leg., No. 684, pp. 6–7 and 9–12).

XIII. EUROPEAN UNION

1. Consular Cooperation: Haiti

On 11 March 2010, during his appearance before Parliament's Joint Committee for the EU, the Minister of Foreign Affairs and Cooperation declared that:

"(...) [R]egarding Haiti, the Spanish rotating Presidency has activated all coordination mechanisms available within the EU framework for this sort of catastrophe, both at the logistics and institutional levels. Therefore, the Spanish First Deputy Prime Minister, together with the Secretary of State for International Cooperation and the Secretary of State for Latin America, has been on the field from the very beginning.

Specifically (...), Spain evacuated Spanish and European citizens from Port-au-Prince. Therefore, the Consular Emergency Unit has devoted great effort to the coordination with EU Member States and European institutions. Likewise, Spain, as the current holder of the rotating Presidency of the EU, has proposed the holding of a Conference on Haiti's Reconstruction, to take place in New York next spring. In addition, Spain, along with France, is the only Member State participating nationally in the board for its coordination and arrangement.

(...)"

(*DSCG-Comisiones Mixtas*, IX Leg., No. 107, p. 3).

2. External Relations

a) *EU-Morocco Summit*

On 9 March 2010, the Ministry of Foreign Affairs and Cooperation, in his intervention before the Congress' Committee on Foreign Affairs to inform on the situation in the Western Sahara, declared as follows:

"(...) [T]he First EU-Morocco Summit, held on 7 March in Granada, has taken place during the Spanish rotating Presidency of the EU, largely thanks to our effort. The Western Sahara, like human rights, is a major issue in the political discussions between Morocco and the EU and so has been reflected in the Final Declarations (...).

I should like to highlight the historical importance of this summit, not only because of the fact that this has been the first one held after the Treaty of Lisbon (...), but because of the fact that Morocco, our neighbour to the South and of great strategic importance for both Spain and the entire EU, has been a party to it, which entails the implicit acknowledgement of our interests. The [A]dvanced [S]tatus (...) is the most demanding and committed means at the disposal of the EU for convergence with our neighbouring countries regarding European values such as democracy and modernity. This instrument has proved highly effective for social and political changes, whose effects will be undergone by the entire Maghreb region, speeding up the process of regional unity, currently hindered by past colonial conflicts which still hamper the modernization and democratization processes in the region in the 21st century (...)"

(*DSC-C*, IX Leg., No. 485, pp. 16–18).

That same day, in response to a question tabled before the Senate's plenary session as to the Government's opinion on the EU-Morocco Summit, the Minister of Foreign Affairs and Cooperation expressed that:

“(...) [T]he Government has positively appraised the recent EU-Morocco Summit, held last weekend in Granada. It has certainly been a landmark summit, since it has been EU's first summit after the Treaty of Lisbon entered into force. Likewise, it has been the first one in which EU high representatives have participated – e.g. President Van Rompuy; the President of the European Commission, Mr. Barroso; and the President of the rotating Presidency, Mr. Rodríguez Zapatero –, as a sign that, in this new period for the EU, the first institutional summit in this new Europe has been held with its neighbour to the South, that is, with a strategic country for both Spain and Europe.

The Summit has led to progress in the so-called Morocco/EU Advanced Status Regime and to a deeper political dialogue on human rights (...), especially in the Western Sahara region. In addition, the Summit has contributed to the expression of both EU's and Spain's stances, the latter showing great commitment to the search for a final solution to the dispute.

The Summit addressed the human rights issue, an issue on which President Van Rompuy, the Spanish Head of State, and the President of the European Commission were very clear as to their positions. However, major progress was made, above all, in key issues such as EU's big strategic project in North Africa, in such an important country as Morocco. Progress was also made in the concepts of new convergence and new neighbourliness, in the attempt to establish a EU/Morocco integration area to be shared by all – except for institutions, logically.

Likewise, progress was made in the definition of a new and stronger free trade area, in the delimitation of what may become the EU/Morocco Single Market, in economic and financial issues, in research and development matters, and, in short, in all policies contributing to the modernization of a country of vital importance for Spanish interests, like in the case of Morocco.

Therefore, the meeting proved highly positive, strategically appropriate and well-timed. It was the first summit held under the Treaty of Lisbon, the first summit with a neighbour to the South, of great implications for both Spain and Europe”.

(*DSS-P*, IX Leg., No. 70, p. 3654).

b) Union for the Mediterranean

In response to a query raised in the Senate's plenary session of 8 June 2010 concerning the causes and potential consequences of the postponement of the Summit of the Union for the Mediterranean, the Minister of Foreign Affairs and Cooperation stated that:

“(...) [T]he decision to postpone the Summit of the Union for the Mediterranean (...) was jointly made by the two co-presidencies, that is, France and Egypt, and also by the Spanish rotating Presidency of the EU. It was a responsible decision, since we consider that the 2nd Summit of the Union for the Mediterranean must be a great success, and so it will be. We postponed it so as to guarantee, or going

even further, to consolidate the Union for the Mediterranean. So we did, aware as we were of the fragile situation in the entire region (...). We were aware of how sensitive the atmosphere was, in spite of the ongoing indirect dialogue between Israel and Palestine. The incident occurred in Gaza has proved us right once again. You may imagine what the non-postponement of the Euro-Mediterranean Summit would have meant – its cancellation the week previous to its taking place, due to the occurrence of the aforementioned incidents in Gaza (...)."

(*DSS-P*, IX Leg., No. 82, pp. 4342–4343).

3. Human Rights

a) *Belarus*

On 24 March 2010, the Government replied to a question posed in Congress by a Member of Parliament as follows:

"Within the framework of EU's external action, the rotating Presidency is giving impetus to the actual and effective implementation of the so-called "EU Guidelines", focused on major issues (...). One of the said Guidelines is that on the Human Rights Dialogues and Consultations held by the EU with third countries. The number of dialogues has grown exponentially throughout the last few years and now amounts to almost 20 (both dialogues and consultations), held with both third States and regional groups.

These dialogues constitute one of the most resorted and efficient means of communication, cooperation and coordination used by the EU with third States all around the world. They have also acted as fora at which concern about the situation of human rights in the said States has been addressed and assessed. Anyhow, dialogues and consultations on human rights are built on the [P]rinciple of [R]eciprocity, with the aim of achieving a frank and open dialogue in which none of the parties may feel neither in a superior nor in an inferior position. This entails that both parties are bound to fulfil the same obligations and to respond to similar commitments, such as granting permission to be visited in their respective territories and to hold periodic rounds of dialogue and consultation in their countries.

In fact, reciprocity is precisely what has been missing lately in the case of Belarus. The EU started the semester's consultation rounds with said country in June 2009, under the Czech Presidency of the Council of the EU. On that occasion, the EU's troika travelled to Minsk before the consultations proper, in order to get to know the situation of human rights in the country first-hand. During their journey, EU representatives had also the opportunity to meet representatives of Belarus' civil society. However, the journey created tension with Belarus' Authorities, who prohibited the troika's access to some of the facilities they had requested to visit. The round of Consultations proper took place on 16 and 17 [June] in Prague in a friendly atmosphere (...).

During the said EU/Belarus Consultation round on human rights, the EU – under the Czech Presidency – (...) raised its concern about the persistence in the use of the death penalty in the country, the only European country where this punishment

is still applicable; a punishment to which the totality of EU Member States are contrary. The EU encourages Belarus to impose a moratorium on the use of the death penalty, which will bring Belarus closer to the Council of Europe's position. On the same occasion, the EU also condemned the excessive secrecy and lack of transparency under which executions were carried out in Belarus.

This has been the line of action followed by Spain, in particular, and by the EU, in general, as to the death penalty in Belarus. Spain and EU's categorical rejection to the persistence of this cruel punishment in Belarus is widely known, since it [Belarus] constitutes the last remaining redoubt of this practice in Europe.

Spain, as the rotating Presidency of the EU for this semester, has initially envisaged a consultation round. Such an aim, shared with the former Swedish Presidency, had already been frustrated in 2009's second semester, when Belarus failed to fulfil those requisites initially established for the celebration of the dialogue round in Minsk, instead of in the EU, unlike what happened in the other round previously described.

Spain has transmitted its true interest in resuming consultations and in establishing an open and frank dialogue with Belarus' Authorities, this being coherent with the interest lately shown by the EU in said country. So was made clear through the revision of EU's position on Belarus, of November 2009, and through the Council of Europe Conclusions on said country, of the same date. However, Belarus rejects the observance of the corresponding Protocol and the presence of the European Delegation within its territory. Such an obstacle cannot be accepted either by Spain or by any other EU Member State, since it undermines our legitimacy and credibility in relations with third States.

Spain, as the holder of the Presidency of the EU, supported by the totality of the Member States, is doing everything in its power to resume Consultations on human rights, which, at the moment, have come to a halt due to reasons beyond its will. However, we will keep making use of all means at our disposal, including the Universal Periodic Review (UPR). Belarus will undergo the UPR within the Human Rights Council framework next May. We will thereby demonstrate our concern about the situation of human rights in Belarus, including the use of the death penalty".

(*BOCG-Congreso D*, IX Leg., No. 391, pp. 376–377).

b) China

On 11 June 2010, in reply to a question posed by a Member of Parliament on the action taken in Yang Chunlin's case under the Spanish Presidency of the EU, and on those issues addressed in the EU/China [D]ialogue on [H]uman [R]ights and the resulting agreements, the Government declared that:

"Human rights promotion and protection is inherent in both Spain's and EU's nature. Therefore, such an aim has become a Government's priority for 2010's first semester, when Spain will hold the rotating Presidency of the EU. The promotion and protection of human rights and fundamental freedoms is present in all bilateral relations established between Spain, the EU and third States, being a key part of our external action at multilateral fora.

The EU has requested answers on particular human rights-related cases on many occasions. Regarding Yang Chunlin's case, who was sentenced to five years imprisonment for "inciting subversion" on 24 March 2008, the EU has been requesting his liberation, as well as information on the evidence leading to his conviction and on whether Yang Chunlin has been submitted to torture.

During the Spanish Presidency of the EU, there has been reiterated the necessity to obtain answers to those questions among which Yang Chunlin's case may be found. Answers will be requested once more in the upcoming EU/China [D]ialogue, to be held in Madrid at the Director-General level.

The EU/China [D]ialogue has not taken place yet. The agreed date is 29 June, but the agenda cannot be confirmed yet. The following 8 benchmarks are always raised in the [D]ialogues:

1. Ratification of treaties on human rights.
2. Cooperation with human rights mechanisms.
3. Death penalty and organ harvesting.
4. Administrative detentions, judicial impartiality, and re-education through work.
5. Inmates' rights and particular cases.
6. Freedom of thought and speech.
7. Freedom of association.
8. Cultural rights and freedoms in Xinjiang and Tibet.

Apart from the issues above, there are other two major topics to be raised, of which only one has been confirmed so far – human rights and the influence of the financial crisis.

There is not an agreement between the parties yet. Should one be reached, it will be announced after the [D]ialogue, on 29 June".

(*BOCG-Congreso D*, IX Leg., No. 437, p. 967).

c) *Cuba*

On 5 July, in response to a question posed by a Member of Parliament concerning the discussions held at the meetings between the Minister of Foreign Affairs and his Cuban counterpart on the situation of Cuban political prisoners, the Government reported that:

"On behalf of EU High Representative, the Minister of Foreign Affairs and Cooperation chaired the EU/Cuba [P]olitical [D]ialogue held in Paris on 10 June. The Cuban Delegation was presided by the Cuban Minister of Foreign Affairs (...).

The major points in the agenda (...) were – the development of political dialogue started in year 2008 and the possibility to carry out further work on it; the start of a reflection process on the future of EU/Cuba relations; the bilateral cooperation between the EU and Cuba; the situation in Haiti and the cooperation of the Cuban medical sector in said country; climate change; the search for new areas of joint work on cooperation for development (like the possibility to carry out a triangular cooperation in Haiti); and the situation of human rights in Cuba.

As to the situation of human rights in Cuba, the Minister of Foreign Affairs and Cooperation reiterated the requirement that all Cuban political prisoners be released. He also conveyed his regret at the death of Orlando Zapata Tamayo and called for the prompt settlement of the situation of those political prisoners carrying out protest actions. Likewise, there was mentioned the ongoing dialogue between the Catholic Church and the Cuban Government.

The Spanish Government expects that efforts on the part of the International Community, especially the dialogue held by Cuban Authorities with both the EU and the Catholic Church, will lead to positive outcome as to the human rights situation in Cuba, specifically as to the situation of political prisoners.

Regarding the envisaged possibility that both the UN Rapporteur on Torture and the International Committee of the Red Cross (ICRC) visit Cuba, these are two issues being currently discussed with Cuban Authorities within the political dialogue framework, both at a EU level and from a bilateral perspective. The EU and the Spanish Ministry of Foreign Affairs and Cooperation have urged Cuban Authorities to allow said visits. The Spanish Government hopes that the aforementioned visits may be paid as soon as possible, once Cuban Authorities have approved them and have agreed on a date with the UN and the Red Cross”.

(BOCG-Congreso D, IX Leg., No. 447, p. 1010).

On 23 September, the Government replied to several questions on the aforementioned issue as follows:

“Regarding relations between Cuba and the EU, the Spanish Government has conveyed its will to start a relaxed debate between the 27 Member States in order to study whether the instrument currently available for EU/Cuba relations, that is, the Common Position, meets the goals and fulfils the interests of the EU in relation to Cuba. Spain would like to re-locate the relation within a new framework of bilateral nature which may respond to the interests of the two parties. This also aims at the prevention of any failure to respond on the part of the EU in the event of a new Cuban scenario where potential changes may occur in the medium or long term, since the EU is limited by a document which was drafted thirteen years ago in a very different context.

Thus, a future Agreement should perfectly reflect and channel European worries and concerns, preventing EU’s failure to respond to a present and future scenario for which Latin America and the US are already preparing. This new relation instrument should not exclude any of the parties’ interests, among which there may be found the defence and protection of human rights in Cuba. In this respect, there must be recalled that any bilateral agreement entered into by the EU with a third country shall include a “Democratic Clause”, which will not differ in the case of Cuba.

The Spanish Government’s goal, shared by the other European partners, is to create the necessary conditions so that Cubans may decide, when appropriate, what they want their country to be, which can only depend on them.

(...)

A general objective during the Spanish Presidency of the EU has been that of turning EU/LAC bi-regional relations into strategic relations, as it would be suitable

for global partners. Cuba cannot be excluded from this challenge. In this respect, it is aimed to analyze whether the instrument currently available for the relations with Cuba, of unilateral character, is the most appropriate for the present context, and the most suitable for EU's objectives and interests in relation to Cuba.

Spain considers that the current policy, built on the Common Position, does not fulfil either present or future needs. There is a wish to reach new consensus in order to establish a new reference instrument for EU/Cuba relations. Such an instrument should not be of a unilateral nature, like the Common Position, but of a bilateral and wide nature, whose material scope should include all topics of interests of the parties, among which human rights stand out.

This would imply the provision of a different legal cover for the current elements in the EU/Cuba bilateral relation. Said instrument would render progress in the human rights field legally binding on Cuba”.

(*BOCG-Congreso D*, IX Leg., No. 463, pp. 21–22).

d) *US*

On 14 June 2010, in reply to a question posed by a Member of Parliament concerning the action taken in Binyam Mohamed's case – a British citizen who underwent torture within the CIA extraordinary renditions programme carried out between 2004 and 2009 – and the need to give impetus to enquiries and accountability on the part of some EU Member States as to the CIA extraordinary renditions programme, the Government declared that:

“(...) Spain, as the holder of the rotating Presidency of the EU, is making use of the valuable instruments in the field, as for instance EU's Dialogues and Consultations with third States (...).

(...)

The EU holds Consultation sessions with the US every semester, whose rounds usually take place in Brussels and Washington D.C., the last meeting having been held in the American capital last 29 January.

As in previous rounds, the agenda gathered numerous discussion points, including the mutual collaboration at multilateral fora and issues of special interest for both parties regarding American and EU policies. Among said points in the agenda, there was included, as in previous years, one related to the “Anti-Terrorism Measures” adopted by the American Government.

As on previous occasions, the EU showed special interest in those changes implemented in this field since Obama's Government got to power. The EU has carried out a permanent and periodic follow-up of Task Forces' outcome regarding the Detention, Interrogation and Transfer Policies. Likewise, the EU took advantage of such an occasion to ask about the Final Report of the first Task Force and about the media reports of the second Task Force. Furthermore, the EU also highlighted how important this issue is for Member States and European institutions, as it may be told from the periodic discussions held by the European Parliament on this matter (...).

The EU also recalled its interest in working together in the approval of common principles which may serve as reference points in the fight against terrorism, on the

part of both the EU and the US. Since the US/EU Joint Statement on the Closure of Guantanamo, work has been carried out on this issue in the context of dialogue held by legal advisors. Another clear example of shared interest may be appreciated in the recent visit to Brussels of Dan Fried, US Special Envoy for Guantanamo's Closure, and of Michael Posner, Assistant Secretary of State for Democracy, Human Rights and Labour, which took place on 26 February and was aimed at a deeper discussion on the aforementioned topics.

The EU, along with the Spanish rotating Presidency, has taken advantage of this open and frank dialogue (...) to transmit its concern about other issues of interest and particular cases, especially in the context of those renditions and transfers carried out on CIA flights during the last years of Bush's Administration.

As to other issues addressed during the last Consultation round of 29 January, there may be mentioned those related to cooperation and coordination at multilateral fora on human rights, especially within the framework of the Human Rights Council in its 13th ordinary session, as well as those issues related to other matters of common interest. By way of example, among them there may be found human rights in business (corporate social responsibility); fight against death penalty; discrimination and its fight; and concern about the situation of human rights in countries such as Venezuela, Iran, Haiti or the Democratic Republic of the Congo.

The aforesaid Consultation round resulted in actual commitments in some of the fields previously mentioned. Thus, for instance, there was agreed the establishment of videoconferences on coordination in the human rights field within the framework of the Human Rights Council to carry out joint work on several areas. It was also agreed to foster the participation of ICT firms in the "Internet Freedom Agenda" launched by Hillary Clinton, US Secretary of State. Likewise, they agreed to keep the follow-up and search for common answers when appropriate, regarding the serious situation of human rights in Iran.

Neither the Treaty on the European Union nor the Treaty on the Functioning of the European Union confer competences related to the security and intelligence services upon the EU Council, which renders Member States responsible for these sort of issues. The Spanish Presidency of the Council of the EU shall fully observe the said distribution of competences, as well as the [P]rinciple of [S]ubsidiarity. As to those particular pleadings on the aforementioned CIA Programme, since the competence is conferred upon each of the States, the pleadings shall be thoroughly examined by those Member States involved, taking into account their obligation to protect human rights and to respect the rule of law".

(*BOCG-Congreso D*, IX Leg., No. 437, pp. 770–771).

e) *Israel*

On 21 September 2010, during his appearance before the Joint Committee for the EU in order to inform on those actions taken by the EU Presidency before the Israeli Government as a result of the attack on the fleet with humanitarian assistance for Gaza, the Secretary of State for the EU declared as follows:

“(..) [F]rom the very beginning, the Spanish Presidency of the EU (...) worked on the issue of the attack on the humanitarian fleet in Gaza, in close coordination with High Representative Catherine Ashton, who is in charge of (...) EU’ Common Foreign and Security Policy. This was aimed at a prompt and coordinated action on the part of the EU before the situation posed by the Israeli attack on the flotilla.

Spain, as the holder of the Presidency, in spite of being under the coordination of the High Representative, made an effort to design a EU strategy on Gaza. A clear instance of that (...) was the meeting of Ministers of Foreign Affairs and Cooperation, last 14 June, at which the 27 Member States drafted a text showing EU’s position in relation to Gaza and the attack on the humanitarian fleet, which also reflected the fundamental points supported by the Spanish Presidency.

Said [D]eclaration condemned the use of force on the part of Israel, requested a thorough and objective enquiry of events, defined the situation in the Gaza Strip as unbearable, and called for a change in Israel’s policy, one leading to the end of the blockade of Gaza, which gives access to humanitarian assistance, goods and people, while ensuring security.

Three days after this Council’s Declaration, on 17 June, after numerous international procedures, Israel announced it is to lessen the blockade, which Spain assessed as progress towards success. Subsequently, on 21 June, there is a [D]eclaration by the Quartet for Peace in the Middle East (...), a [D]eclaration which also deemed the change in Israel’s policy as progress towards success, but which reiterated the need to work in order to end the blockage of Gaza”.

(*DSCG-Comisiones Mixtas*, IX Leg., No. 140, pp. 2–3).

f) Priorities of the Spanish Presidency

On 21 September 2010, in his appearance before the Joint Committee for the EU in order to inform on the action carried out by the Presidency of the EU, the Secretary of State for the EU declared the following as to the scope of the external action in the human rights field:

“(..) [T]he dimension of external action coincides with our Presidency’s objective to set the pillars of a strong structure on which to promote and protect human rights, what may be called the new architecture of European external action (...). During 2010’s first semester, Spain maintained the leadership of the main working group of the Council of the European Union in the promotion and protection of human rights overseas, the so-called COHOM working group (...). This group is responsible for several initiatives carried out by the EU under the Spanish Presidency, as for instance, the one related to UN human rights system and the protection of its universal character (independent and indivisible), which addresses particular cases where there exists violation of human rights. The group has also made progress as to regulations on human rights and has consolidated cooperation in the field. These have been the major objectives of EU’s external action on human rights.

(...) The fight against death penalty constitutes a priority for the Spanish Government, not only during its Presidency of the EU, or at present, when we are part of the Trio Presidency, but also as a key point of Spanish Government’s external action.

Hence, there has been appointed a national coordinator for the fight against death penalty, Ambassador Mr. Rafael Valle, who centralizes Spain's actions on death penalty and the procedures for the creation and implementation of an [I]nternational [C]ommittee [A]gainst [D]eath [P]enalty.

During the Spanish Presidency, our action was focused on two complementary and interlinked fields. First of all, Spain started, both in the Member States' capitals and among those experts present in New York, the conformation of the EU strategy to be followed in the negotiations previous to the presentation of the [R]esolution on the [U]niversal [M]oratorium on the [U]se of the [D]eath [P]enalty. The said [R]esolution will be presented in October, before the 3rd Committee of the UN General Assembly, to be passed by the plenary forum, and will be complimentary to the two Resolutions previously adopted on the issue, in 2007 and 2008 respectively. During 2010's first semester, Spain has attempted to make third States aware of the significance of said [R]esolution.

On another matter, (...) Spain, as the leader of the COHOM working group, has given impetus to an intense campaign in the Member States' capitals, in order to achieve the biggest number of national contributions to the Secretary-General's Report, as requested in Resolution 63/168 of the General Assembly calling for a Universal Moratorium on the Use of the Death Penalty. Seventy Spanish Embassies, Embassies of other Member States and EU Delegations have participated in this global effort. This is an intense activity which will contribute to emphasize the world trend towards the abolition of the death penalty in the planet, a trend which has already been confirmed by the UN Secretary General.

Regarding our action within the bilateral relations framework, as a complimentary means, Spain has assured the inclusion of the death penalty issue in all our bilateral dialogues and consultations with third States. Apart from these dialogues, in which Spain has taken part on behalf of the EU, Spain has integrated the issue in bilateral contacts throughout the semester. Let me mention, by way of example, countries such as Albania, FYROM, Burkina Faso, China, Georgia, Guinea-Conakry, Kenya, Lebanon, Mexico, Serbia and Montenegro, Namibia, New Zealand, Pakistan, Peru, Russia, Singapore, South Korea, Ukraine, Bangladesh and the US.

Priority number two of the external action for the defence of human rights is gender equality and the fight against violence against women. Spain has made special effort in its external action (...) within the appropriate multilateral frameworks and in its bilateral relations. Spain has compiled reports on the situation of the violence against women in more than 90 countries, which have been elaborated by the diplomatic missions in close collaboration with the civil society in the field. This becomes valuable information for the creation of a general map of the situation of violence against women in the world, which provides priorities and recommendations as well. It has been included in a general chart which will be turned into a public tool open to the civil society and to all those sectors interested in working together to fight the problem of violence against women in the world. The map should be used for the work carried out by missions, ministries and the civil society and it should be updated periodically. Likewise, there has been requested that diplomatic missions approve local strategies to implement the appropriate guidelines (...).

EU's role has also been fundamental regarding gendercide. Spain has decided to address such a problem from a deep perspective, the violence against women being one of the issues in the declaration of the EU-LAC Summit held in Madrid. Spain's concern has also been evident in its active role in the 54th Session of the UN Commission on the Social and Legal Status of Women held last March in New York, in which the Minister for Equality took part (...).

During the Spanish Presidency of the EU, we have worked together with the other Member States on the arrangement of EU's participation in the UN Commemoration of the 10th anniversary of UN Security Council Resolution 1325 on Women, Peace and Security. Needless to say that Spain has actively participated in the informal EU Women, Peace and Security Task Force.

As to the third element, (...) Spain remains active as to the promotion and protection of human rights defenders through its national reception programme, among others. This action has also been developed within the framework of EU's guidelines on human rights defenders, which have settled the theoretical basis for the initiatives implemented during this semester. Therefore, Spain has arranged meetings between diplomats and human rights defenders in 62 different countries, with the aim to update current local strategies and have them adapt to those countries where guidelines do not exist yet. There have been appointed liaison officers in 72 countries (...). The establishment of a common reference point for human rights defenders promoted by the Spanish Presidency means the provision of an identifiable and available interlocutor, which improves the efficacy and the speed of EU's interventions for the support of human rights defenders, since the exchange of information between diplomatic missions and the EU has become easier.

(...) The aim is to create an environment suitable for the action of human rights defenders, who are key actors in the promotion, protection and defence of human rights and in the fight against its violation. (...) It is a major turning point in EU's relations with the civil society around the world, which we want to become a precedent for the organization of the European External Action Service. (...) Under the Spanish Presidency, the so-called EU Embassies have provided websites with the contact details of liaison officers, having also published a list of countries with strategies in this respect. Likewise, under the Spanish Presidency, there have been meetings between human rights defenders in many countries.

Point number four (...) is that of the fight against torture and other cruel, inhuman or degrading treatment or punishment. Spain, as the president of the COHOM, has kept working on the action of former Presidencies in the materialization of guidelines against torture and other inhuman or degrading treatment. The campaign was launched by the Swedish Presidency during 2009's last weeks, and was continued by the Spanish one. Such a campaign created a list of eleven countries which had to carry out a thorough analysis of the use of torture on the field. As a result, there may be found reports and strategies on the situation and the use of torture in Iraq, Nigeria, Mexico, The Philippines, Bangladesh, Egypt, Uzbekistan and Kazakhstan. Said documents have been preceded by the corresponding interviews with authorities, visits to prisons, and the analyses of States in the international scope.

Apart from that, the EU has taken active part in all multilateral and regional initiatives against torture, as well as in the regional Conference on the Optional Protocol to the Convention against Torture held in Dakar. In order to be coherent as to internal and external action, we have promoted dialogue on torture within the EU framework, so as to promote the ratification of the aforementioned Optional Protocol.

Point number five (...) is the rights of the child. Our work and efforts have been focused on the issue of child labour. We have attained that this issue be present in the Declarations of the Council for European Affairs, of 14 June 2010. Therefore, we disseminate a system in which to pool the efforts on cooperation for development, trade policy and political support. Spain has coordinated the work of the different task forces. We deem that these conclusions will foster the enlargement of the number of Member States which are parties to international instruments on the protection of the rights of the child, specifically to the Convention of the Rights of the Child, its two attendant Protocols and those instruments provided by the International Labour Organization. On another matter, emphasis has been made on the application of guidelines on the rights of the child and of children in armed conflicts. In both cases, there has been decided to create and assess those strategies which may be implemented in the field of EU's policies on children.

Point number six. Access to safe drinking water and sanitation. This is one of the newest lines of development in EU's human right field, that is, the acknowledgment of access to drinking water and sanitation as a human right. The EU has adopted a declaration to commemorate the World Water Day, a very significant fact. Virtually, it is one of the first occasions on which, in the human rights field, a right of financial, social and cultural nature becomes a priority. From that moment on, it will be the "First European Declaration on Water". Said [D]eclaration reaffirms the idea that States have obligations as to those human rights related to the access to drinking water and highlights that UN bodies, together with civil society groups, experts, governments and other actors involved, request the acknowledgment of the right to water.

Point number seven. The fight against discrimination on the grounds of sexual orientation and gender identity. (...) [I]n the majority of dialogues held with third States on the human rights issue during the Spanish Presidency, there has been addressed the situation of LGBT's human rights around the world, of which there resulted different reactions on the part of our interlocutors, especially, in those countries where particular violations have occurred. In this respect, urgent measures have been requested in order to improve the situation. With that purpose in mind, the EU offers its cooperation and technical support and encourages countries to promote initiatives in cooperation with the civil society.

Point number eight and last (...). The rights of disabled persons. I should like to highlight the celebration of three meetings between Member States and the Commission aimed at bringing their positions closer. The goal is also to create a code of conduct to be shared by the Council, the Member States and the Commission concerning the internal agreements for the application and the representation of the UN Convention on the Rights of Disabled People on the part of the EU. Thanks to the coordination task of the Spanish Presidency, I think that the adoption of said

document may be ready under the Belgian Presidency. I should like to convey you that, although it has not been published, the Spanish Presidency has worked on a draft for a toolkit on those instruments at the disposal of the EU in the area of the rights of the disabled, and which will be discussed in upcoming months.

(...) [T]his set of priorities calls for action instruments; for instance, the dialogues with third States on human rights, which may appear either as dialogues, consultations or subcommittees. During 2010's first semester, thirteen dialogues have been held within the CFSP framework, that is, the Common Foreign and Security Policy (...). On another matter, Spain has coordinated two rounds of local dialogue with Colombia; the first one being held in April on emerging criminal groups and the second one on internally displaced persons and the situation of unionists. On 12 May, there was held the first round of the EU/Mexico DF dialogue, whose main topic was the violence against women.

These dialogues and consultations largely contribute to strengthen the coordination between those EU Member States and third States sharing actions within the UN framework. It constitutes a major instrument for information exchange, control of the human rights situation, as well as a forum for positive criticism in this respect, a magnificent opportunity for dialogue between the EU and the civil society of the third State. But it is not the only instrument. There may be found others such as the so-called action before the authorities of a particular country. This sort of action has been carried out around the world concerning all the aforementioned issues. Particular cases are also numerous. This is important since the Presidency has not only dealt with the human rights issue in an abstract scope, but it has addressed particular cases in different areas.

Thus, our Presidency has worked on more than 200 particular cases which have increased EU's concern about the issue. In this sense, our contacts have worked together with NGOs in analysis and search tasks; they have paid visit to prisons and have contacted our Embassies in the field in order to get information on the particular cases. (...) [D]uring the Spanish Presidency, work has been carried out on several declarations on human rights protection, which range from particular cases of death penalty, tortured persons, serious violations of human rights in a country, to the request for the liberation of particular political prisoners.

(...) Spain has always made the effort in coordination with the EU at the multi-lateral fora. In the 13th and 14th sessions of the Human Rights Council, for instance, (...) there must be highlighted the work carried out by the Spanish Delegation in Geneva for a Joint International Declaration on Iran. (...) All this has been carried out together with the civil society and the European Parliament, which have always been aware of it. The civil society is the best connoisseur of the reality on the field. We have systematically met the major European NGOs, both before and after these dialogues and during the meetings in Brussels, these being Amnesty International, Human Rights Watch, and the International Federation of Human Rights. We have also met European Parliament representatives. We have always kept the European Parliament informed on all the activities developed under the Presidency. I have had the opportunity to hold several discussions at the European Parliament, the majority of which were related to the human rights field. Likewise, there must be

highlighted the importance of the Conference in Kampala on the reform of the Statute of the International Criminal Court, at which Spain was present as the EU Presidency (...)."

(*DSCG-Comisiones Mixtas*, IX Leg., No. 140, pp. 14–17).

g) *Torture*

On 24 March 2010, in response to a question posed by a Member of Parliament in Congress, the Government declared that:

"Spain, as the rotating Presidency of the EU, is giving impetus to the promotion and protection of human rights in those areas already defined as priorities, such the fight against torture and other cruel and degrading treatments. EU Guidelines on the matter reflect so, (...) Spain being particularly committed to them – and to the achievement of their objectives –. It is certainly a priority issue since long ago, also at the national level. Spain ratified the UN Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment and Punishment of 1987 (CAT), as well as its Optional Protocol in 2006, becoming one of the first EU Member States which had ratified said Protocol. Furthermore, Spain has representatives both at the Committee Against Torture (Fernando Mariño, since 2001), and at the Subcommittee on Prevention of Torture (Emilio Ginés, since 2006).

In this context, Spain deems it essential that EU's external action be coherent as to the internal observance of human rights-related obligations in all the aforementioned priority areas. For this reason, Spain, as the rotating Presidency of the EU, declared at the beginning of the semester that one of its priorities would be the promotion of the universal ratification of the Optional Protocol to the Convention Against Torture. With this purpose in mind, it aims to achieve a common position on the matter, shared by all Member States. In this sense, the Spanish Presidency has reiterated on many occasions, both in informal and formal contexts, how important it is that Member States ratify said Instrument. The Government is aware of the fact that two of the upcoming Presidency holders have not ratified the Protocol yet, namely, Belgium and Hungary; therefore, it is exerting pressure on both in order to speed up said internal ratification process.

In the case of Belgium, there exists the will to ratify it, the delay being due to internal coordination mechanisms. However, Belgian representatives have assured that they expect to have it ratified as soon as possible. On the other hand, in the case of Hungary, the signature and ratification of the Protocol are still pending issues on the Agenda of the Minister of Justice. In this case, the delay is a consequence of technical obstacles as well, and not of a lack of political will to ratify the Protocol. In fact, Hungary is currently involved in a process of internal debate on what should be the best instance of a National Mechanism Against Torture. Hungarian Government Representatives have confirmed that the signature and ratification of the Protocol to the Convention Against Torture are likely to be among the first measures to be adopted by the new Government after the national election to be held next April".

(*BOCG-Congreso D*, IX Leg., No. 391, pp. 375–376).

h) Violence Against Women

On 6 September, the Government answered another question concerning the same issue as follows:

“On 8 March 2010, EU Member States in Brussels unanimously approved the Spanish Conclusions on Violence Against Women. These reflect not only violence exerted by partners, but also the trafficking in women and girls for sexual exploitation, practices such as female genital mutilation, honour killings and forced marriage.

Governments of European countries of very different political stances have supported the Spanish initiatives, identifying our country as a reference point regarding equality policies, which are also one of the axes of the Spanish Presidency of the EU.

The adoption of said Conclusions turned out to be the first time in the history of fight against violence against women in Europe that this becomes a common objective to be reached through a common Strategy such as the creation of a European Observatory on Violence against Women. The Observatory would provide common indicators and methodologies to gather data; information being essential in order to channel and run actions in the correct direction as well as in order to assess results.

Likewise, another proposal is the creation of a European common and free contact telephone number to provide information and assistance to the victims of this sort of violence, associated to European contact number 116. In addition, they have agreed to carry out a campaign to raise awareness, in order to prevent and denounce stereotypes and behaviours which may lead to violence.

Our strategy coincides with Europe's, our priorities coincide with the priorities of the other Member States, namely, preventing, raising public awareness, and assisting victims. Spain's credibility in Europe as to Equality issues is evident, since our European partners are aware of the progress made by Spain in this area, which leads to a positive appraisal of the outcome obtained by the Presidency in this field (...).”

(BOCG-Congreso D, IX Leg., No. 457, p. 139).

4. Immigration

On 30 August 2010, in response to a parliamentary question raised in Congress concerning the European Action Plan on Unaccompanied Minors, the Government declared as follows:

“(..). Regarding the European Action Plan, there must be highlighted the fact that its adoption largely depends on a proposal made by the Spanish Government, which throughout year 2009, and during the Spanish Presidency, has been working on the achievement of a common approach to the matter.

On the basis of the Commission's Communication concerning the Action Plan on Unaccompanied Minors, of 6 May, both the Ministry of Justice and the Ministry of the Interior of the EU adopted, last 3 June, under the form of Council Conclusions, a set of 32 measures arranged into 5 fields of action, namely, knowledge on

the situation, prevention, protection and procedural guarantees, relations with third countries and return and reintegration.

The measures adopted support the strategy which Spain has been developing for a few years now on foreign unaccompanied minors. The strategy is based on the respect for the best interests of the child, and on the comprehensive approach to the phenomenon. It combines measures on the prevention of irregular migration of minors, their protection (in both origin and reception countries), and reintegration.

In this sense, the adoption of the Spanish strategy on foreign unaccompanied minors on the part of the EU constitutes a great achievement. In relation to this strategy, reflected in the European Action Plan, permanent dialogue is held with those Autonomous Communities which due to their geographical location receive a higher number of minors.

Simultaneously, contact with the major countries of origin of these minors have been intensified, since we consider that it is not a problem affecting only the EU, but also affecting the situation of the most vulnerable citizens. Therefore, as it is envisaged in the Action Plan, any measure adopted in relation to these minors shall respect the principle of the best interests of the child".

(BOCG-Congreso D, IX Leg., No. 457, p. 207).

On 21 September 2010, in his appearance before the Joint Committee for the EU in order to inform on the action taken by the EU Presidency in the human rights field, the Secretary of State for the EU, declared that:

"There must be mentioned the new impetus given to EU's common migration policy, highlighting the follow-up of the application of the European Pact on Immigration and Asylum, the European Asylum Support Office and the approval of the Action Plan on Unaccompanied Minors. The Unaccompanied Minors Programme has been of great interest for the Spanish Presidency. The Council of Justice and Home Affairs held on 3 and 4 June (...) passed some conclusions based on the said Action Plan on Unaccompanied Minors, which is the result of a thorough action on the part of Spain in order to raise awareness among the Member States. Spain, as you all may know, has experience on the unaccompanied minors phenomenon, the reason why it was set as one of the key objectives of our Presidency (...).

The Plan addresses for the first time specific problems faced by foreign unaccompanied minors in the EU, establishing four major lines of action – prevention, regional protection programmes, minors reception, and identification of lasting solutions (...). This is clearly a success of the first semester – the comprehensive approach to the problems faced by foreign unaccompanied minors, together with the specific approach affecting the entire Union, always respecting the best interests of children.

(...) At the [M]inisterial [C]onference held in Saragossa on the [I]ntegration of [I]mmigrants, ministers drafted a declaration on integration as the mechanism of development and social cohesion. It also envisaged the action of Member States in fields such as employment, education, institutional access and participation, the development of indicators for the assessment of migrants' integration, the creation of an integration agenda (bearing in mind the importance of national contact points in the integration and the exercise of the essential common principles on integration). This

Conference (...) became the Conclusions of the Council of Justice and Home Affairs (...) of June (...). In this respect, there must be highlighted as well the Conference on Roma's rights held in Cordoba, which took place under our Presidency".

(*DSCG-Comisiones Mixtas*, IX Leg., No. 140, pp. 12–13).

5. Common Agricultural Policy

On 27 May 2010, in response to a parliamentary question on the guidelines, actions, and positions of the Ministry of Environmental, Rural and Marine Affairs, concerning the future of Spain beyond year 2013 in relation to the Common Agricultural Policy (CAP), the Government stated that:

"Regarding the discussions on the future of the Common Agricultural Policy (CAP) beyond year 2013 ("Horizon 2020"), the Ministry on Environmental, Rural and Marine Affairs will support the need to maintain an agricultural policy which remains common, and which provides those elements necessary for the development of the agricultural activity across the entire European territory, in a competitive and sustainable manner.

Taking this context into account, work is being carried out, at both the internal and European levels in order to highlight that agriculture and food are a strategic sector. We firmly believe so for various reasons – for its capacity to provide citizens with healthy, safe and quality food; for its potential to promote and foster economic growth in the new model of sustainable economy; and for its contribution to the challenge posed by the conservation of environment and of the territories and their biodiversity, and to the challenge posed by the struggle against climate change.

At the European level, during our rotating Presidency, in the agricultural field, the motto under which work is being carried out is that of "Agriculture and Food as a Strategic Sector for Europe", which clearly reflects our concerns and lines of action. Among the defined priorities on which we are working, there must be mentioned two – CAP's future beyond 2010 ("Horizon 2020"), and the competitiveness of the agriculture and food sector.

In particular, regarding CAP's future ("Horizon 2020"), the action to be taken is that of a deep debate on those instruments for market and crisis management which we deem necessary for the future CAP. Within the framework of the Agricultural Council of the EU, the Spanish Presidency concludes, together with the other two Member States in the Trio Presidency and supported by the great majority of Member States, that there exists a clear, appropriate and sufficient market orientation of European Agriculture and the CAP, as well as a need for an effective safety net to lessen the effects of the present volatility of prices in the world markets.

Likewise, there is clear interest in the creation of additional instruments for the management of markets, above all in the field in charge of the improvement of the functioning of the food supply chain, and producer and interbranch organizations. Furthermore, there is a need for flexible financial instruments which facilitate rapid action during serious and general market crises.

Furthermore, an informal meeting of the Agriculture Council of the EU will be held on 30–31 May and 1 June. It will be devoted to a joint reflection on CAP's future, being complementary to the work carried out by previous Presidencies in close cooperation with the Commission.

Therefore, the Spanish Presidency maintains the debate on the CAP's future within European society and institutions. These reflections will be of great utility for the Commission, above all for the creation of its proposals and for Council's discussions on this matter.

Additionally, permanent contact with the European Commission is maintained with the aim to clearly establish Spanish interests regarding CAP's future reform, and in order to highlight the strategic importance of the agricultural sector for both Spain and the EU.

Simultaneously, another action carried out by the Spanish Presidency is that of promoting the Council's initiatives to increase competitiveness in the agriculture and food industries in Europe, these being essential sectors which contribute to food safety and availability, to the growth and the employment in the EU and to the preservation of population and financial activity in rural areas.

Within the Council framework, under the Presidency's auspices, debate is being held on the possible measures to improve the functioning and efficiency of European food supply chain and to contribute thereby to the development and the implementation of measures and the pertinent common legislation and proposals. In particular, there must be highlighted the following 5 priority lines of action:

- The need to strengthen the producer sector, through producer organizations, cooperatives and inter-trade organizations.
 1. A clearer transparency of markets.
 2. The report of abusive and unfair practices, and the market's self-regulation.
- The search for the necessary balance between regulations on competition and regulations on the food and agricultural sector.

In addition, we are aware of the need for an improved agriculture and food sector in a globalized market, which must strengthen its presence in international markets, and ask for equal requirements, requisites and controls on imports from third countries, in order to guarantee the safe import of food, which shall take place under equal conditions which do not distort the market.

(...)

Regarding the debate on the budget, held before the legislative proposal on the Multiannual Financial Framework, the Commission shall submit its Communication on the Review of the Community Budget and Common Policies. The Government's position regarding the upcoming Communication on a reform of the Community Budget has been clear and firm. It has supported the need for a CAP which is granted sufficient budget to face those objectives envisaged in the Treaty and fulfil the functions of food production and preservation of the territory.

In addition, the Government deems that the revision of the budget be carried out on the basis of the policies to be developed. New political objectives require new actions and a new budget, but this cannot be done if it dismantles those policies which are currently successful.

Therefore, the position of the Ministry of Environmental, Rural and Marine Affairs is that of highlighting the importance of a strong CAP, which relies on sufficient financial instruments to face the future challenges of European and Spanish agriculture and producer sectors”.

(*BOCG-Congress D*, IX Leg., No. 417, pp. 101–103).

6. Common Foreign and Security Policy

a) *EUTM-Somalia*

On 17 June 2010, in reply to a parliamentary question posed in Congress concerning the Spanish contribution to the military mission for the training of Somali Security Forces (EUTM-Somalia), the Government reported that:

“(...) Spain’s contribution to the aforementioned mission amounts to 38 military personnel, Spain being the framework nation and the one providing the highest number of personnel out of an overall of 100 soldiers. Likewise, Spain runs the Mission, for whose leadership there was appointed a Land Force Colonel as the Commanding Officer of the Operation.

There must be highlighted that the mission’s aim is to contribute to the training of Somali Security Forces, enlarging the current training programme of the African Union Mission in Somalia (AMISOM), thereby reinforcing EU’s efforts on the fight against piracy through Operation Atalanta.

The objective of EU’s EUTM-Somalia Mission is to train 2,000 Somali soldiers (including regular officers, non-commissioned officers and troop) during two training periods of 6 months each. With this purpose in mind, the mission has been structured as follows – Mission’s Headquarters in Kampala (Uganda), Training Camp in Bihanga (Uganda) and Support Cell in Brussels”.

(*BOCG-Congreso D*, IX Leg., No. 428, p. 227).

7. Budget

On 6 October 2010, in his appearance before Parliament’s Committee on Foreign Affairs, the Secretary of State for the EU, declared as follows:

“(...) My appearance is due to the submittal of the expenditure budget of the Secretariat of the State for the EU for financial year 2011. It is also aimed at the analysis of financial flows between Spain and the EU for that same period.

(...)

The budget of the Secretariat of State amounts to €24.02 million, the main part being allocated to Chapter 1, the one devised for personnel, and which amounts to almost €17 million. The overall budget represents 0.92% of the budget of the Ministry of Foreign Affairs and Cooperation. However, this one is clearly the Secretariat with the lowest budget at this Ministry.

(...) EU’s budget for next year is not firm yet, since it is still undergoing discussion between the European Council and the European Parliament.

Those figures proposed by the Commission on 16 April were €142,565 million for commitment appropriations, which are a fundamental reference point when it comes to budget, and 135 million for payment appropriations; Spain's current contribution to EU's budget being of 8.54%, which corresponds with its financial weight in the Union.

Let me make a distinction between the Spanish contribution, that is, funds to be contributed to the EU next year, and those to be received from the EU, since next year Spain will still be a net beneficiary of European funds. However, it will not be a net contributor yet (...). During negotiations held in 2004 or 2005, Spain gained the status of net beneficiary of funds, to be maintained until financial circumstances change, what will happen in 2013.

Spain's contribution will be €11,820 million for next year. Such a contribution is made up of several components. The first one is that of traditional own resources. In this case, the traditional component is that of customs duties, which will amount to approximately €820 million and will increase in relation to the present year. However, the Spanish contribution through the VAT resource will be reduced, since (...) the VAT taxable base used for Spain has decreased, since we will contribute a smaller sum to the EU through this funding means, approximately €1,300 million, 11% of the overall Spanish contribution approximately. Spain's major contribution will be that related to the gross national income resource, which amounts to €8,800 million. Virtually, 3 out of 4 parts of the Spanish contribution to the EU refer to it. Said contribution is the reflection of positive progress on the part of the EU, which should elaborate an increasingly balanced budget where the balance between the contribution and the reception of funds corresponds with the degree of richness, and the national income and product of each country (...).

(...) As to the budget, Spain will contribute €11,820 million and will be the beneficiary of €13,265 million. Certainly, we are net beneficiaries of funds. These financial resources are what the Yellow Paper of the Ministry of Economy calls transfer from the general budget of the EU to Spain. Both the contribution and the reception of funds on the part of Spain will decrease next year in relation with the present one, as a consequence of the economic crisis, which will be reflected on the two items, that is, what we contribute to the EU and what we get from it.

I should like to refer to the two key elements in those Spanish financial resources coming from the EU, namely, Agricultural Policy and Cohesion Policy. Spanish Agricultural Policy will be granted €7,600 million, 2.35% less than this year. This is the prevision. This comes from the European Agricultural Guarantee Fund (direct aids for farmers, the major pillar of the CAP) and the EAFRD, that is, the European Agricultural Fund for Rural Development. A smaller fund will come from the European Fisheries Fund. This is mainly under the CAP. From the CAP, we will receive €7,600 million, the most important sum coming from this policy. In Cohesion Policy is where EU's contributions will be smaller, since it is in this the area where the impact (even statistically) caused by the adhesion of countries from Eastern Europe will be reflected, for significant Cohesion Funds will be distributed into the latter.

Said Cohesion Policy will grant approximately €5,000 million to Spain on the part of the EU next year, that is, 23% less in relation to this year (...). Structural

Funds (the European Regional Development Fund and the European Social Fund) will contribute more than €3,800 million; whereas the Cohesion Fund, where the phasing-out system may be noticed, will grant €1,185 million to Spain, which means a decrease of 40% in relation to the present year. This 40%, together with diminished Structural Funds, will lead to an average reduction of 23% for next year, in relation to the present one, regarding Cohesion Policy (...).

The European Development Fund (EDF) is a contribution made by Spain and other countries to Community aid for development cooperation with countries in Asia, the Caribbean, the Pacific and other overseas countries and territories (OCTs). This fund is not included in the EU's budget, but it is something which Spain contributes to the EU, even if it is not included in the budget document (...). Next year, Spain will contribute approximately €295 million to this fund. I used the adverb approximately because figures are not final yet, awaiting the outcome of the debates to be held until the final approval of the budget. This entails an increase of 35% in relation to this year (...).

(...) During financial year 2011, Spain will still retain its net beneficiary status (...). Our net financial balance as to the EU for next year (here I include the European Development Fund, so we are talking about the Budget plus the Development Fund) will be of €1,147.86 million, that is 0.09% of the Spanish GDP and almost half of the balance estimated for this financial year, given the fact that reductions in next year's contributions to the EU will not be compensated, as we will also receive less. Therefore, the net balance will decrease, being still a positive net balance, as I said, of €1,147 million approximately (...).

(...)

The Spanish contribution to the European Development Fund for the upcoming year has been set, as I have already mentioned, in €295 million, which represents 35.06% in relation to the amount set for this year. In spite of the entry into force of the so-called 10th EDF Programme, during financial year 2011, Spanish contributions will coincide with those payments under the 9th Programme, instead of those under the 10th. The Spanish participation in this sort of actions will be of 5.84%, still under the 9th Programme, the upcoming one being of 7.85%, under the 10th Programme”.

(*DSCG-Comisiones Mixtas*, IX Leg., No. 625, pp. 20–27).

XIV. RESPONSIBILITY

1. Individual Responsibility

On 6 December 2010, the Ambassador and Permanent Representative of Spain to the United Nations, Mr. De Laiglesia, intervened at the ICC Assembly of States Parties and expressed the following:

“The importance of adopting the amendment to Article 8 of the Rome Statute lies in the consequent enlargement of the Court's jurisdiction over those war crimes committed in situations of internal armed conflict. Consequently, its jurisdiction gets

aligned with the one applicable over the same crimes when committed in situations of international armed conflict. This certainly contributes to a better coherence and integration of those international rules punishing the most serious violations of International Humanitarian Law.

(...)

Likewise, it is important that our States fulfill the promises made in Kampala. In this sense, I am glad to say that my country has progressed resolutely in the fulfillment of its promises regarding its cooperation with the Court, the support to the victims of those crimes under its jurisdiction, and the promotion of the universality and integrity of the Rome Statute. I should also like to recall the importance given by Spain to international cooperation for the strengthening of domestic judicial systems capacities. Our cooperation with Colombia, the Organization of American States, or Rwanda, are good examples of our will to integrate this variable in Spanish cooperation programmes.

(...)

My delegation deems that the opportune moment has come for us to reflect on the establishment, composition and tenure of the Advisory Committee set forth in Article 36.4.c) of the Rome Statute. It is not about the creation of a body to replace States Parties in their responsibility as to the election of judges, but about the creation of an institution which, without causing unnecessary administrative and economic burdens to the Court, assists States Parties in the election of the best for the exercise of high judicial functions provided in the Rome Statute”.

(Official Website of the Permanent Mission of Spain to the UN. Press Office > <http://www.spainun.org/pages/viewfull.cfm?ElementID=3116>).

2. Investment Protection

The Minister of Foreign Affairs and Cooperation, Mr. Moratinos Cuyaubé, intervened before the Senate’s plenary session of 19 October 2010, pointing out the following with regard to the actions carried out by the Government for the defence of Spanish citizens’ interests as to the expropriation of enterprises on the part of the Venezuelan Government:

“(...) The Government, the Ministry of Foreign Affairs and the Embassy have started to work immediately in order to reach a satisfactory solution for Spanish businessmen. First of all, they are keeping a permanent contact with those affected; secondly, they have cut off channels of dialogue with the Venezuelan Government, channels which are key elements indeed. And let me insist again in this – unless there exists dialogue with Venezuelan authorities, it will be very difficult to defend our nationals in complex and complicated situations. In third place, they are acting sensibly in order to provide an acceptable solution for the owners of enterprises.

(...)

Regarding the Agroisleña case, Honorable Member, you may remember that two years ago, more precisely, two and a half years ago, they spoke about the likely nationalization of Banco Santander, which was finally resolved. We want the same spirit, the same commitment, and the same result. We will achieve this through the

support to businessmen's actions, but also urging them to resort to the International Court of Arbitration, which is actually possible thank to the bilateral investment treaty (BIT) entered by this Government.

On another matter, as you may know, there is a joint work group made up of members of the National Land Institute and the Spanish Consulate which has so far provided good results. I know that some Senators do not consider so, but good results are provided. I have good news as well. Only 48 hours ago, an agreement was reached so as to compensate 8 farming companies eligible for compensation. An agreement has been signed so that owners receive compensation worth €3 million in November. Specific cases are settled through dialogue, acting firmly, yes, firmly. Since the Government always acts firmly, eager to settle specific cases. That is the way the Spanish Government acts in Venezuela and elsewhere in the world when it comes to defending Spaniards and Spain's interests".

(*DSS-P*, IX Leg., No. 96, pp. 5211–5212).

XV. PACIFIC SETTLEMENT OF DISPUTES

XVI. COERCION AND THE USE OF FORCE SHORT OF WAR

1. Collective Measures

a) Afghanistan

In response to several parliamentary questions before Congress on the mission of Spanish troops in Afghanistan, the Government reported that:

"(...) The Spanish presence in Afghanistan, as well as the presence of the other 47 countries participating in the ISAF, responds to the mandate granted by the United Nations to this mission.

Therefore, the increase of the contingent deployed at present will allow a greater implication on the part of Spain in the training and instruction of Afghan Security Forces. Furthermore, this reinforcement is coherent with the proposals defined by Spain during the last few years for the Afghanistan mission, as well as with the allied strategy previously described.

The new increase of military personnel and additional means of the Spanish contingent in the ISAF, approved by Parliament last 17 February, and which has been materialized in 511 soldiers and 40 members of the Spanish Gendarmerie, aims mainly at contributing to the training of the new Afghan Army units in the West region, the area where the Spanish contingent is deployed.

Thank to the increase in means and personnel, Spain will train, in year 2010, 2,000 soldiers of the Afghan Army, that is, 1 soldier out of the 20 necessary for the achievement of ISAF global objective for this year – 40,000 new soldiers.

Likewise, it must be recalled as well that the essential duty of the Spanish contingent deployed in Afghanistan is to provide security for the support of the country's

authorities and Afghan Security Forces, which entails to ensure freedom of transit in major transport links.

As to the Rules of Engagement (ROE) of the ISAF mission, it must be highlighted the fact that they are established by NATO's command, being therefore common to the 47 countries participating in the mission.

Regarding the activities carried out in the field by the Spanish contingent, it must be pointed out that these are provided in the Operations Plan designed by NATO for the ISAF mission, pursuant to the mandate granted by the United Nations.

In this sense, the degree of solidarity and the joint activities of the Spanish contingent and the allies allow the fulfillment of the contingent's duties and those of the other allied countries within the ISAF Operation framework.

The cost of the Spanish mission in Afghanistan, as the Minister of Defence has pointed out in consecutive interventions, amounted to an overall €365 million in year 2009. Likewise, the mission's cost, since Spain started participating, has totaled €1,500 million.

With regard to Provincial Reconstruction Teams (PRTs), it is emphasized that, according to ISAF Operations Plan (OPLAN), their mission is that of supporting the Afghan Government in the expansion of its authority in order to favor the development of a stable and secure environment in its area of responsibility, as well as to make reconstruction efforts and security reforms possible. PRT's action is organized according to three pillars or lines of action – security, development and governability.

The main aim of PRT's military personnel is to provide sufficient security (first pillar) so as to facilitate cooperation and development action (second pillar), mainly carried out by the civil contingent/AECID, along with a relevant contribution of the military contingent under the shape of "rapid impact" civil-military cooperation projects (CIMIC). Action on the third pillar, governability, takes place under the principle of joint responsibility of both civil-military components".

(BOCG-Congreso D, IX Leg., No. 437, pp. 733–734).

b) *Georgia*

In his intervention before the Congress Committee on the Interior on 14 April, the Minister of the Interior, Mr. Alfredo Pérez Rubalcaba, informed on the sending of members of the Spanish Gendarmerie to Georgia as peacekeepers:

"(...) In the last decade, the nature of conflicts has caused an increasing demand of police forces within the international missions field, since experience gained in the management of crises has proved these forces and security bodies to be very versatile. They are able to create the essential security conditions for the development of other sort of structures of political, social and economic nature, which, in the long run, are the most efficient structures in the resolution of this sort of conflicts. This is the main argument which justifies, and has justified in the last few years, the presence of the police component in international missions (...).

On another matter, at present, the police component of international missions is framed within a broader component, the civil one, which encompasses other possible members of these international missions, who are in charge of the promotion of the rule of law or the civil Administration. Anyhow, this civil component is

divided into two big groups – EU civil management missions and UN peacekeeping missions (...).

[W]ithin the EU scope, the third mission in which we have participated is the one in Georgia, which was a monitoring mission. It started on 1 October 2008, pursuant to the provisions in the agreements entered in Moscow and Tbilisi with the mediation of the European Union on 12 August and 8 September 2008. At the moment, the mandate is extended until 14 September 2010. On 15 September 2008, the Council of the European Union decided to establish a civilian monitoring mission in Georgia, in accordance with the conclusions reached at the Extraordinary European Council held on 1 September 2008. In only two weeks, more than 200 observers were deployed on the field, this being the most rapid deployment of a mission carried out by the EU.

The mission's mandate was, and still is, to oversee the implementation in Georgian territory of the agreements aforementioned. The mission lacks executive power, that is, it lacks the legal capacity to act autonomously; it only informs and advises Georgian authorities. Its aim is to contribute to the stabilization and normalisation of the region after the conflict between Russia and Georgia, through the monitoring of the implementation of those agreements previously entered by both countries. Its duties are to oversee the deployment of police and armed forces in Georgia, and to monitor the observance of every single provision of Humanitarian Law on the part of all parties involved.

These generic duties can be broken down into the following tasks. First of all, stabilization tasks through the monitoring and analysis of the situation on the field, verifying the implementation of the agreements aforesaid. Within this monitoring task there may be found the withdrawal of troops and those potential violations of human rights and International Law (...). However, apart from this stabilization function, it also fulfils a normalisation function through the monitoring and analysis of governability, the rule of law, public order, infrastructures security, as well as through the monitoring of the return of internally displaced people and refugees. Eventually, it also meets the objective of fostering trust by contributing to the reduction of tension thanks to liaisons which facilitate contact between the parties, especially in the so-called administrative boundary line with Abkhazia and South Ossetia.

The participation of our Security Forces and Bodies, as of 31 December 2009, was of 8 components, which have cooperated with multi-national police teams in charge of the monitoring and follow-up of the implementation of 2008's agreements between Russia and Georgia on the region's stabilization".

(DSC-C, IX Leg., No. 513, p. 5).

XVII. WAR AND NEUTRALITY

1. Disarmament

On 29 March 2010, the Ambassador and Permanent Representative of Spain to the United Nations, Mr. Juan Antonio Yáñez-Barnuevo, intervened before the United Nations Disarmament Commission (UNDC) on behalf of the European Union and declared that:

“(...) The EU recognizes the UNDC as the specialized, deliberative body within the United Nations multilateral disarmament machinery allowing for in-depth deliberations on specific disarmament issues. The EU welcomes the work carried out last year by both Working Group I, dealing with ‘Recommendations for achieving the objective of nuclear disarmament and non-proliferation of nuclear weapons’, as well as Working Group II, which is deliberating on the ‘Elements of a draft declaration of the 2010s as the fourth disarmament decade’ (...).

The EU warmly welcomes the renewed momentum in global arms control and disarmament and stresses the need for general disarmament. Non-proliferation, disarmament and arms control, together with confidence, transparency and reciprocity, are vital aspects of collective security. The EU would like to take advantage of this renewed momentum in facing the serious challenges we have to address and move forward on all these matters.

The EU is deeply committed to strengthening the multilateral system. International organizations, treaties, conventions and other instruments should be at the heart of our common efforts to confront threats to international peace and security. We need to universalize and implement these instruments and to ensure compliance by all states with their respective international obligations. Strengthening the authority of the United Nations and the legally binding treaty regime should be a priority for all countries. The Security Council has a crucial role that should be strengthened, in addressing situations threatening international peace and security.

Reinforcing the non-proliferation regime should be a key priority for all States in order to prevent the proliferation of weapons of mass destruction and their means of delivery, which is potentially the greatest threat to our common security. We reaffirm that all States must take concerted and resolute action to ensure strict compliance with their non-proliferation obligations and respond quickly and effectively to non-compliance. In this sense, the EU welcomes the important Resolution 1887 (2009) adopted by the Security Council on 24 September 2009, during the Summit on Nuclear Non-proliferation and Disarmament.

The EU continues to support the work of the 1540 Committee in fulfilling its renewed mandate, as well as initiatives such as the Proliferation Security Initiative. The EU also reaffirms its commitment to rigorous national and internationally-coordinated export controls.

The Treaty on the Non-Proliferation of Nuclear Weapons (NPT), based on its three mutually reinforcing pillars of non-proliferation, disarmament and the peaceful uses of nuclear energy, represents a unique and irreplaceable framework for maintaining and strengthening international peace, security and stability. In light of the current challenges in the field of international security, in particular the risk of proliferation in the Democratic People’s Republic of Korea and the Islamic Republic of Iran, the EU is convinced that the NPT is more important than ever.

The proliferation risks presented in particular by Iran continue to be a matter of grave concern to us. The EU strongly regrets that Iran has not provided the necessary cooperation to permit the International Atomic Energy Agency (IAEA) to confirm that all nuclear material and facilities in Iran are for peaceful activities, which is in defiance of its obligations under the NPT to cooperate with the IAEA under

Article III and of its Safeguard Agreement as well as relevant United Nations Security Council Resolutions. The EU reiterates its commitment to seek a comprehensive, long-term solution to the Iranian nuclear issue through dialogue and negotiations. However, Iran's persistent failure to meet its international obligations and Iran's apparent lack of interest in pursuing negotiations require a clear response, including through appropriate measures.

The EU is actively working for a successful outcome of the NPT Review Conference in May 2010. We seek a substantive and balanced outcome of this Review Conference that strengthens the international nuclear non-proliferation regime. We must seize the opportunity of this upcoming Review Conference to move forward toward a safer world, one in which it is possible to meet all the objectives enshrined in the NPT, whether they be disarmament, non-proliferation or the peaceful uses of nuclear energy. The EU has tabled a set of forward-looking proposals on all three pillars of the NPT, to be part of an action plan adopted by the Review Conference.

Since security in Europe is linked to security in the Middle East, the EU puts particular importance on non-proliferation and disarmament issues in that region. The establishment of an effectively verifiable Middle East zone free of nuclear weapons and other weapons of mass destruction (WMD) and their means of delivery is regarded by the EU as a means of enhancing security and stability in the region. The EU remains committed to and recognizes the importance of implementing the relevant resolutions on the Middle East adopted by the UN Security Council and the 1995 NPT Review and Extension Conference. Practical steps should promote adherence to and compliance with a combination of nuclear, chemical and biological non-proliferation, arms control and disarmament agreements, such as NPT, Chemical Weapons Convention (CWC) and Biological Weapons Convention (BWC).

The EU would like to highlight the IAEA's unique and indispensable role in verifying States' compliance with their nuclear non-proliferation obligations. The EU believes that the safeguards system of the IAEA is the irreplaceable basis for verification in the international nuclear non-proliferation regime and to the success of the multilateral system. The EU would like to reiterate its call for the universal conclusion of the Comprehensive Safeguards Agreements and Additional Protocols, which form today's verification standard.

Europe's security benefits from continued global disarmament efforts. We welcome the commitment by Presidents Medvedev and Obama to negotiate a follow-up agreement to the Strategic Arms Reduction Treaty as well as their renewed engagement on other strategic issues related to disarmament and non-proliferation. We count on the early conclusion of the post-START agreement and look forward to further arms control talks. We welcome the nuclear disarmament measures taken by the two EU nuclear-weapon States and their initiatives in this field. We call on the international community to work on promoting the concrete and realistic disarmament initiatives endorsed by our 27 Heads of States and Government, which we submitted to the UN General Assembly in 2008 with a view to this year's NPT Review Conference.

The Comprehensive Nuclear-Test-Ban Treaty (CTBT) is of crucial importance to nuclear disarmament and non-proliferation. The renewed political commitments to

pursue ratifications of the CTBT, in particular within some Annex 2 States, and recent progress in the build-up of its verification regime give new impetus to our efforts to achieve the earliest possible entry into force of this key treaty. Pending the entry into force of the treaty, we urge all states to abide by a moratorium and to refrain from any actions that are contrary to the obligations and provisions of the CTBT.

The EU welcomes the adoption by consensus in 2009 of the programme of work of the Conference on Disarmament and, on this basis, attaches great importance to the immediate commencement and early conclusion of the negotiations on a Treaty Banning the Production of Fissile Material for Nuclear Weapons or other Nuclear Explosive Devices (FMCT), on the basis of document CD/1299 of 24 March 1995 and the mandate contained therein, as agreed in Decision of 29 May 2009 of the Conference on Disarmament for the establishment of a Programme of Work for the 2009 session (CD/1864). Pending entry into force of such a Treaty, we call upon all states concerned to declare and uphold an immediate moratorium on the production of such material.

The EU notes that a growing number of States show interest in developing peaceful uses of nuclear energy aimed at addressing their long-term energy requirements and for other purposes. The EU notes with interest the International Conference on Access to Civil Nuclear Energy that was held in Paris on 8–9 March 2010. The EU remains committed to ensuring a responsible development of peaceful uses of nuclear energy, in the best safety, security and non-proliferation conditions, by countries wishing to develop their capacities in this field. We stress the key role played by the IAEA in this regard. The EU supports the development of multilateral approaches to the nuclear fuel cycle. We are convinced of the benefits of such approaches by providing nuclear fuel supply security for countries developing a nuclear programme in the best safety, security and non-proliferation conditions. The EU looks forward to achieving further progress on ongoing initiatives in a consensual way. We encourage the steady improvement of proliferation resistance through applied research in this field.

The EU contributes significantly to global nuclear security efforts and welcomes, in that respect, the commitment by the United States to work intensively towards securing all vulnerable fissile material and to host a “Nuclear Security Summit” on 12–13 April this year in Washington. The EU is ready to actively contribute to the success of the Summit.

In this three-year cycle (2009–2011), the EU is convinced that the UNDC should devote adequate attention to conventional weapons, including Small Arms and Light Weapons (SALW).

Mindful of the harmful and destabilizing effects of unregulated transfers of conventional weapons and their diversion to the illicit market, and of the humanitarian consequences of mines and cluster munitions, the EU is strongly committed to improving the international and regional responses to these threats. Thorough legislation in the area of transfers of conventional weapons is already in place in the EU and is implemented by the EU Member States.

The EU strongly supports the concept of an international Arms Trade Treaty (ATT) and is actively participating in and promoting the process leading towards its realization. The EU welcomes the adoption last December by the General Assembly of

Resolution 64/48, calling for the convening of a UN Conference on the Arms Trade Treaty to meet in 2012 to elaborate a legally binding instrument on the highest possible common international standards for the transfer of conventional arms. The EU is looking forward to working actively toward this goal in the preparatory committee of this Conference in 2010 and 2011.

The EU is a major donor to mine action and supports and promotes the 1997 Anti-Personnel Landmine Ban Convention and its universalisation. The EU welcomes the outcome of the Second Review Conference of the Ottawa Convention that took place in Cartagena de Indias (Colombia) from 29 November to 5 December 2009, especially the document 'A shared Commitment for a Mine-Free World: The 2009 Cartagena Declaration' in support of the Convention and its goals, together with the adoption of the 'Cartagena Action Plan 2010–2014', which will guide us in our fight against antipersonnel landmines and its effects in the next five years.

The Convention on Cluster Munitions (CCM) represents an important step forward in responding to the humanitarian problems caused by this type of munitions, which constitute a major concern for all EU Member States. The EU welcomes the adoption of this new disarmament and humanitarian instrument and its entry into force on 1 August 2010, as well as the timely holding of the First Meeting of States Parties in Vientiane, Laos, in November 2010. The adoption of a meaningful protocol on this type of munitions in the Convention on Certain Conventional Weapons (CCW) framework involving major military powers could be an important further contribution.

The EU remains firmly committed to preserving and developing the CCW, which constitutes an essential part of International Humanitarian Law. As several High Contracting Parties are not yet in a position to join the CCM, the EU is convinced that concluding in the framework of the CCW a complementary agreement, compatible with the CCM, would significantly contribute to addressing the humanitarian impact of cluster munitions.

The EU is strongly committed to eradicating the excessive accumulation and illicit trade in SALW and their ammunition. The EU aims to reduce the unregulated availability of these arms and their ammunition in areas of conflict or potential conflict. To further its objectives, the EU has adopted a set of specific instruments that are enshrined in the EU SALW Strategy adopted by the European Council in 2005. Through the provision of assistance to third countries, dialogue with our partners, and support to relevant international instruments, the EU remains committed to the implementation of its SALW Strategy.

The EU fully supports the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, and advocates for the implementation of the International Instrument on Marking and Tracing. The EU continues to support, through specific projects, the regional and national implementation of these instruments. The EU will continue to combat threats posed by activities related to the illicit spread of these arms, and will take active part in the work of the 4th Biennial Meeting of States which will take place in New York next June.

Transparency in the field of conventional weapons, through the UN Register on Conventional Arms, including information on SALW, remains a key component for

combating the uncontrolled spread of such weapons and for promoting an atmosphere of trust and security. Such an atmosphere would also be enhanced by increasing transparency in military expenditures. The EU underlines the importance of broader participation in both instruments”.

(Official Website of the European Union at the United Nations > http://www.europa-eu-un.org/articles/en/article_9673_en.htm).

2. Arms Exports

On 8 June 2010, the Secretary of State for Trade, Mrs. Iranzo Gutiérrez, intervened before the Congress Defence Committee to present Spanish statistics on the exports of defence and other type of equipments, and dual-use goods and technologies for year 2009, pursuant to Article 16.1 in Act 53/2007, of 28 December, on the control of the foreign trade of defence and dual-use goods:

“In the last years, flows of exports and imports of defence goods have had a more regular character, as the result of various Spanish firms undertaking joint cooperation programmes in the military field, namely, Eurofighter programme, the A400M transport aircraft, the Tiger helicopter, the Leopard tank, Meteor missiles, Taurus and Iris-T, and MIDS electronic communications programme. Specifically, in year 2009, there was an increase of 44.1 percent in defence goods exports with regard to year 2008. The value of exports amounted to €1,346.5 million. Shipments to EU countries represented 39.4 percent of the total amount, inferior to those of years 2005 and 2004, which represented 59.8 percent and 79.6 percent, respectively. However, as to their value, sales to EU countries totaled €530.4 million, a sum clearly higher than those in previous years. For instance, in year 2008, the sum of exports to EU countries amounted to €380 million; in 2007, to €367 million and in 2006 to €242 million. Shipments were mainly distributed to Germany, United Kingdom, Portugal and Italy.

(...)

NATO countries absorbed 64.6 percent of exports (...). Remaining sales (€474.2 million and 35.2 percent), after the deduction of those exports to EU and NATO countries, were distributed among 41 countries, among which Malaysia stands out, with €180.5 million and 13.4 percent of overall exports.

(...)

Botswana needs mentioning as well, with €37.5 million and 2.8 percent invested in two transport aircraft and logistic support and spare parts. Colombia imported €33.3 million and 2.5 percent, assigned to one transport aircraft and logistic support and spare parts. Finally, Morocco invested €31.1 million and 2.3 percent in 286 all-terrain vehicles; ambulances; tank, fire and tow trucks; non-armoured vehicles; aircraft parts and pieces; and light weapons spare parts.

(...)

As to police and security goods, exports amounted to €6.3 million – €4.1 million and 65 percent to Angola; €1 million and 16.2 percent to Bolivia; €0.8 million and 13.4 percent to Venezuela; €0.3 million and 5.4 percent to Nicaragua; and, finally, 385 euro to Peru.

(...)

Regarding exports of hunting and sporting arms (shotguns, cartridges and their pieces and spare parts), they totaled €39.9 million and were chiefly shipped to – United States, which invested €9.9 million, corresponding with 24.8 percent of exports; Republic of Guinea (also known as Guinea Conakry), which invested €4.1 million, representing 10.3 percent of exports; Ghana, with an investment of €3.5 million and 8.9 percent of exports; and, finally, Turkey, whose investment amounted to €3.2 million, representing 8.1 percent of exports. These exports consisted mainly of hunting cartridges. Shipments to the Republic of Guinea were made before the coming into force of Common Position 2009/788/CFSP, of 27 October 2009, concerning restrictive measures against the Republic of Guinea. Consequently, the fourteen existing licenses were reversed on 24 November 2009, at the time of the coming into force of the embargo against this country, which, as you may know, responds to the recent coup d'état occurred there.

(...)

As to the exports of dual-use goods and technologies in 2009, they decreased by 35.7 percent with regard to year 2008, totaling €99.12 million. The major destination of Spanish exports of dual-use goods was Iran, with an investment of €38.9 million representing 39.3 percent of exports. Shipments consisted of steel tubes for the production of steam boilers and air-conditioning devices; steel tubes and valves for the automotive, oil, petrochemical and gas industries, respectively; and spare parts, tools and turbines accessories for the sectors aforementioned. Spanish exports to this destination may be striking due to the embargoes against Iran and the numerous restrictions on it set by the United Nations and the European Union. Exports to Iran have been analyzed, case by case, by the Inter-ministerial Regulatory Board on Foreign Trade in Defence and Dual-Use Goods (JIMDDU), and by the Secretariat General for Foreign Trade at the Ministry of Industry, Tourism and Commerce, considering UN Resolutions and EU Common Positions and regulations concerning restrictive measures against the country.

(...)

Libya was the second major destination of Spanish exports of dual-use goods, having invested €12.7 million, which represents 12.8 percent of this type of exports. Exports consisted of three navigation and civil air traffic control radars, together with spare parts for their maintenance; as well as of chemical substances for laboratory analysis at a University. At present, there are not any embargoes set against the country, since the arms, trade and economic embargo against it, imposed by the UN in 1992, was lifted in September 2003; and EU's embargo of 1986 was lifted in October 2004 (...). The People's Republic of China was the third major destination, with an investment of €9.6 million, corresponding with 9.7 percent of overall exports.

(...)

Except for the ten major destinations, the reduced remaining percentage, 8.9 percent, was well distributed among 54 countries in different regions.

(...)

With regard to the other two issues, let me mention them through reference to the following recommendation. The recommendation referred to the Government's

interpretation of the criteria of Common Position 2008/944/CFSP, of 8 December, defining common rules governing the control of exports of military technology and equipment to authorize transfer of defence goods to certain countries of concern in 2008. Specifically, the Government had to prove whether it had considered the situation of human rights and International Humanitarian Law in said destinations, as well as to present the information sources to which it had referred.

It cannot go without saying that exports are analyzed through a series of fundamental parameters such as the product, its destination, commitments subscribed at international fora, refusals by third countries, the recipient and user in the country of destination, the final use and control documents. Furthermore, Spanish authorities apply to the exports of defence goods all the criteria in the Common Position; as well as those criteria for the exports of SALWs, passed by the Organization for Security and Co-operation in Europe (OSCE); those commitments resulting from the Spanish participation in the major International Forum on Non-proliferation; the so-called Wassenaar Arrangement; and the refusals by the States participating in said fora. Thus, we may affirm that the JIMDDU has never issued a positive report on operations which had been previously rejected by other countries, by virtue of the application of the criteria and commitments aforementioned.

(...)

In another recommendation, there was expressed the wish for a legally binding treaty on arms trade within the United Nations framework (...), an initiative to which the Spanish Government grants great importance. The objectives reflected on the recommendation fully coincide with those of Spanish authorities. Therefore, Spain was one among the 117 co-sponsors of the project aforesaid, passed on 6 December 2006 at the 61st session of the UN General Assembly. As a consequence thereof, there was created a group of governmental experts to study the project's feasibility, scope and parameters, Spain being among the 28 selected countries. Likewise, Spain was also one among the 114 co-sponsors of the Resolution adopted on 17 October 2008 at the 63rd session of the UN General Assembly. By means of the Resolution, it was agreed to carry on the work, through the creation of an open working group, on the possible drafting of a future legally binding instrument which establishes common international rules for the import, export and transfer of conventional weapons.

(...)

One of the most relevant recommendations was based on the intensification of efforts so that the CCM, of 3 December 2008, comes into force (...). Spanish authorities made the political decision of becoming leaders of the process, imposing a unilateral moratorium on the uses, development, production, acquisition and foreign trade of cluster munitions long before the Convention is ratified. Said agreement was approved by the Council of Ministers on 11 July 2008. The Convention will come into force on 1 August 2010, when the minimum number of ratifications out of thirty countries has been reached. The Spanish Parliament ratified it on 18 March 2009 and Spain deposited the corresponding instrument of ratification on 17 June 2009.

(...)

In the subsequent recommendation, there was suggested to suspend authorization to export in the event of an existing armed conflict, disrespect for human beings'

inherent dignity, violations of human rights or of International Humanitarian Law. It must be highlighted that Spanish legislation relies on suitable mechanisms to face these situations. Thus, suspension or revocation of those authorizations previously granted is duly regulated under Article 8 of Act 53/2007, which considers all situations aforesaid.

Another recommendation championed the establishment of more restrictive criteria for the exports of anti-riot and police equipments to prevent the transfer of this type of goods to some of the countries appearing on the 2008's report. The assessment criteria applied by the JIMDDU to these operations are those mentioned in one of the recommendations to which I made reference before. Special emphasis is given to the 8 criteria in Common Position 2008/944/CFSP, among which there can be found respect for human rights and International Humanitarian Law in the country of destination. Thus, the JIMDDU will issue a negative report on any exports operation to a country when there exists proof of actual serious violations of human rights or of International Humanitarian Law. Likewise, it will refuse any operation under the risk of using equipments for internal repression purposes.

In the subsequent recommendation, there was suggested that dual-use exports should be under more restrictive criteria than those applied by the Government to prevent their diversion into programmes for the production of weapons of mass destruction. In the exports of dual-use goods and technologies, Spanish authorities apply those commitments resulting from the Spanish participation in international fora on non-proliferation of weapons of mass destruction (...). Likewise, there applies those commitments resulting from international treaties and conventions on non-proliferation, such as the NPT, the CWC or the BWC. By way of specific example there can be found, for the very first time in year 2006 and the beginning of 2007, the adoption of embargoes on the exports of dual-use goods and technologies to Iran and the People's Democratic Republic of Korea, respectively. UN Resolutions were reflected on the adoption of preventive measures related to the potential transfer of nuclear products, equipment and technologies to Iran, as well as to the supply of heavy weapons and related services. Said Resolutions were supported by a EU Common Position and several regulations on the matter. The second embargo affected the People's Democratic Republic of Korea since the UN Security Council had agreed on the imposition of an embargo on the exports of conventional weapons and on those of items, equipments, products, goods and technologies related to the nuclear and missiles programme. At the same time, the European Union adopted a Common Position on shipments to said destination.

(...)

Another recommendation championed the Spanish Government's promotion of the maximum participation possible in the UN Register of Conventional Weapons on the part of the various countries concerned. Although the Ministry of Foreign Affairs and Cooperation would be the body in charge of presenting the specific action carried out in this field, we may affirm that an active dissemination task has been carried out together with Latin American countries regarding the non-proliferation and SALWs fields".

(DSC-C, IX Leg., No.564, pp. 2-10).