

Spanish Diplomatic and Parliamentary Practice in Public International Law, 2009

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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

The Minister of Defence, Ms. Chacón Piqueras, emphasised on 7 April 2009, in her intervention before the Defence Committee in the Congress of Deputies, that:

“Spain has a strong commitment to multilateralism. Our Magna Carta clearly expresses Spain’s will to participate in the strengthening of peaceful relations and effective cooperation between all peoples on Earth. For this reason, the successive Governments of the democratic period, irrespective of their political stances, have been increasingly involved in international organizations, committed to the rule of law and to mutual respect. The first reference as to international relations is, obviously, the United Nations and its Charter of 1945. NATO and the European Union play an important role in the search for peace and stability as well. Spain is not a passive member of these bodies, but it has sought to assume an increasingly important responsibility over the years. We want to collaborate actively in the development of a more just and prosperous world. When conflicts arise, we are, above all, staunch defenders of the principle of peaceful resolution of differences. Only when negotiations did not solve the problem, have we used, as a last resort, other means, such as the military – always at the request of the United Nations, the European Union or NATO”.

(*DSCG-C*, IX Leg., No. 250, p. 2).

On 8 December 2009, Spain participated in the oral hearings held before the International Court of Justice regarding the request for advisory opinion submitted by the UN General Assembly, on the Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government

of Kosovo. As the Head of Delegation and Advocate on behalf of Spain, Ms. Concepción Escobar Hernández declared that:

“Spain is strongly committed to the respect for the law as a guiding precept of its policy. Accordingly, Spain is in no doubt as to the pivotal role law must play in international relations and, in this connection, my country has always placed its full faith in this Court as the principal judicial organ of the United Nations, bearing the responsibility to lay down the law and to expand its role as the organ ultimately ensuring the pre-eminence of law in the international arena.

(...)

Spain recognizes the pivotal role which protection of the individual must play in international relations and in contemporary International Law. From this viewpoint, we are certain that full respect for human rights must be taken into consideration in interpreting the norms and principles of International Law, even in the area of maintaining international peace and security.

(...)

International Law is a legal system composed not only of norms but also of principles which must be applied in any given case. These norms and principles must, moreover, be applied systematically and within the specific context. Accordingly, from the legal point of view it is impossible to accept that International Law can remain “neutral” in respect of an act (the Unilateral Declaration of Independence) which has serious international consequences”.

(CR 2009/30, pp. 8, 18 and 21–22, paras. 2, 41 and 55).

II. SOURCES OF INTERNATIONAL LAW

1. Treaties

In response to a question posed in the Senate, on 17 September 2009, the Government pointed out the reasons why Spain had not signed the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families of 1990:

“Firstly, most rights covered by the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families are recognized and protected by Spanish Law and other international instruments of human rights protection ratified by the Spanish State.

Moreover, it should be noted that, after the Constitutional Court had heard of the appeals for unconstitutionality lodged against Organic Law 8/2000 of 22 December, reforming Organic Law 4/2000, of 11 January, on the Rights and Freedoms of Foreigners in Spain and their Social Integration, it declared that certain provisions of the Law aforementioned were unconstitutional, recognizing that foreigners have fundamental rights, regardless of their administrative status in Spain.

(...)

In short, the Government maintains its firm position, committed to the promotion and the guarantee of the fundamental rights of persons, and this can be noticed in the new draft for the reform of Organic Law 4/2000, which grants foreigners the maximum level of rights and guarantees.

With regard to the signature and ratification by Spain of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, adopted by the United Nations Assembly through Resolution 45/158 of 18 December 1990, entered into force on 1 July 2003, it must be noted that none of the Member States of the European Union has become a part to that Convention yet, due to the fact that the text provides for matters covered by the Treaty of Amsterdam.

In this context, the Government is trying to achieve consensus in the design of a common migration policy in the European Union and is working hard to reach agreements with European partners as to the draft guidelines currently under discussion in the Council and the Parliament.

The Government's priority, even more in view of the forthcoming Spanish Presidency of the European Union, aims to consolidate the progress achieved in immigration in the European Union. So, it is considered that ratification of the above Convention of the United Nations shall not be an isolated decision by Spain, but an action taken by the European Union. The Government's objective is not other than to promote the inclusion of this initiative in the European agenda".

(*BOCG-Senado*, IX Leg., No. 329, pp. 135–136).

III. RELATIONS BETWEEN INTERNATIONAL LAW AND MUNICIPAL LAW

IV. SUBJECTS OF INTERNATIONAL LAW

1. Self-Determination

a) Western Sahara

In response to a question raised in the Congress about the legal statute of the Spanish Government with regard to Western Sahara, on 22 April 2009, the Government declared the following:

"As a result of its respect for International Law, Spain has always held that, pursuant to the Madrid Declaration of 14 November 1975, it transferred the control of the territory but did not provide for its sovereignty, an issue still pending resolution within the UN framework.

Regarding the performance as an administering power, there exists a restricted meaning of the term "administering power" in a formal legal sense, the one covered by Article 73 Section e) of the UN Charter referring to those countries which have certain obligations in the decolonisation process of a Non-autonomous

Territory. In this case, the term is used to define colonial powers, as it was the case of Spain in relation to the Sahara until the former's withdrawal from the territory.

In 2002, the Corell Report (prepared by the Under-Secretary General for Legal Affairs, Hans Corell), on the prospecting in the mining sector in Western Sahara, made a series of considerations about "the legal status of Western Sahara under Moroccan administration" among which he rejected to apply the concept of Administering Power to Morocco in the sense referred to in Article 73 of the Charter. However, it is significant that the Report applies to Morocco, by analogy, the rules regulating the obligations for Administering Powers.

This report recognises that Morocco has exercised as a *de facto* administrative authority in Western Sahara since 1976, although it does not appear on the list of Administering Powers of Non-autonomous Territories formulated according to Article 73 of the UN Charter without prejudice to the sovereignty issue pending definition through the exercise of self-determination.

With regard to the legal status of Western Sahara, it is a Non-autonomous Territory *de facto* administered by Morocco, whose legal status remains unresolved, pending final resolution of the conflict within the United Nations framework. A negotiation process is currently being carried out, the so-called Manhasset Process, set in motion by Resolution 1754 of the Security Council of 30 April 2007, in order to achieve "a just, lasting and mutually acceptable political solution that provides for the self-determination of the people in Western Sahara".

Spain has an active commitment to Western Sahara, and is fully involved in the negotiation process, both as a member of the Group of Friends of Western Sahara in the United Nations, and as a privileged interlocutor of the parties (Morocco and the Polisario Front), neighbouring countries and the main countries concerned. Spain provides political support to the United Nations' Secretary-General (UNSG) for the issues of Western Sahara and welcomes the recent appointment of his Personal Envoy in order to help the UN negotiation process and to keep its centrality in the search for a final settlement".

(BOCG-Congreso-D, IX Leg., No. 190, pp. 329–330).

On the occasion of the Session of the Committee on Foreign Affairs, held on 17 March 2009, the Minister of Foreign Affairs and Cooperation, Mr. Miguel Angel Moratinos Cuyaubé, summarised the guidelines for the resolution of the Western Sahara conflict:

"The mandate constantly reiterated in the various resolutions by this UN body is to finally achieve (...) a political solution – just, lasting and mutually acceptable – which allows the self-determination of the people in Western Sahara. Thus, there is a clear objective pursued by the United Nations that should bring together all these elements without missing any of them.

(...)

A political solution to a dispute should lead to an agreement, which, in turn, would impose the need for dialogue in order to negotiate and reach an agreed conclusion. This negotiation should not be carried out by third parties, but by the parties actually involved. According to Resolution 1754 of April 2007, the

Security Council has clearly identified the need to make the parties exercise a leading role in those negotiations seeking for an agreement. These negotiations shall be carried out under the auspices and within the framework outlined and agreed upon by the Security Council. Therefore, the current phase of conflict negotiation in the UN framework is completely new, since it grants the parties, *ie* Morocco and the Polisario Front, a central role. On the contrary, in the previous phase, the initiative lay with the UN Secretariat-General and its envoys. However, it must be noted that UN centrality is maintained, as the negotiation could not provide the necessary guarantees to the parties and to the international community itself outside the United Nations domain.

(...)

The second condition to be met by an arrangement is that the solution be not only political, but also just. Spain has always been strong in defending goals in accordance with the parameters of UN international legitimacy.

(...)

The Security Council insists that the solution be not only political and just but also lasting. This leads us to reconsider the crucial and irreplaceable role of the UN when seeking for an agreement. Only the political and legal legitimacy of the United Nations, which represents the organized international community, may guarantee the durability required for the settlement of such disputes. This is why the Government has always stressed the importance of framing any dialogue for conflict resolution under the competences that the United Nations Charter has conferred upon the Security Council, which is the body responsible for the international preservation of peace and security. The solution will be considered as lasting only if it reaches an agreement in the main issues that have kept this conflict unresolved for over thirty years.

(...)

The fourth premise required by the Security Council is that the solution be not only political, just and lasting, but also mutually acceptable for the main parties.

(...)

As the fifth and final requirement, the Security Council establishes a clause that guarantees legitimacy and legality. No solution will be considered as complete or acceptable unless it observes the principle of self-determination. The coherence of the United Nations and the need to reach a consensus between the parties include the need to incorporate this principle. The formulae to achieve this must be consistent with the principles and purposes of the UN Charter, as established by resolutions. Nevertheless, the negotiation method shall also apply to clearly define the lines of the ways in which an agreed solution between the parties would recognize the actual achievement of the self-determination principle”.

(*DSC-C*, IX Leg., No. 223, pp. 12–15).

In the same hearing, the Minister of Foreign Affairs and Cooperation pointed out the following, referring to the possibility of recognition of the Sahrawi Arab Democratic Republic by the Spanish Government:

“Let the Sahrawi people decide freely for themselves what they want to be. Therefore, we (...) do not recognize the Sahrawi Arab Democratic Republic,

being fully aware of all its consequences. But this does not mean that we only have a humanitarian relationship with the Polisario Front. (...) In the last term of office, some members of the Spanish Government visited the area, and it was the first time in twenty or thirty years that a member of the Spanish Government visited Saharan territories”.

(DSC-C, IX Leg., No. 223, p. 24).

Mr. Moratinos Cuyaubé also referred in his speech to the role of international actors in the resolution of this dispute:

“Therefore, we are not rejecting dialogue, but our respective relationships with the Polisario Front and Morocco are obviously not the same. The relationships are logically not the same because the former is not a State and they have to start the negotiation process in order to achieve their free self-determination.

(...)

The regional role of the parties is essential – the role of Mauritania and Algeria; but I reckon the role of France, the United States and Spain to be even more important. However, neither the United States, nor France, nor Spain have reached an agreement on the future of this region called Maghreb in the course of these thirty-three years. But now there is harmony and willingness for rapprochement, analysis, diagnoses, and for challenges between the three countries, the three actors, capable of influencing on those who can find a solution, all aware of the risks and the challenges which affect the whole of this Maghreb region”.

(DSC-C, IX Leg., No. 223, pp. 24–25).

On 24 September 2009, the Government emphasized the need to promote the respect for human rights in Western Sahara:

“Our country has repeatedly and substantively dealt with the situation of human rights, both in Western Sahara and the refugee camps in Tindouf. Spain has always emphasized the importance to respect human rights according to our domestic legislation and the main international legal instruments in this field.

(...)

On the other hand, the Government understands that the resolution of the Western Sahara conflict within the UN framework is the best way to preserve the respect for human rights and the wellbeing of all peoples in the region. Therefore, the Spanish Government will remain committed to the search for a political solution to the conflict, which must be just, lasting, mutually acceptable and must fulfil the self-determination principle”.

(BOCG-Senado, IX Leg., No. 325, p. 75).

On 17 December 2009, the Minister of Foreign Affairs and Cooperation referred again to the situation of Western Sahara in his appearance before the Foreign Affairs Committee in the Congress of Deputies, making special reference to Ms. Haidar, the Sahrawi human rights activist on hunger strike in Tenerife (Spain), who had been banned by the Moroccan authorities from entering the occupied territories in Western Sahara:

“On 30 April, Resolution 1871 by the UN Security Council was unanimously adopted. This resolution reaffirmed the main elements of the three previous resolutions – Resolution 1754 of 2007, 1783 of 2007, and 1813 of 2008 – and renewed the mandate of MINURSO (United Nations Mission for the Referendum in Western Sahara). It took into consideration the proposals submitted by the Polisario Front and Morocco in 2007, and recognised, once more, the serious and credible efforts made by this country in order to move towards conflict resolution. The resolution maintained the spirit of the previous resolutions, appealing to the parties to achieve a just, political, lasting and mutually acceptable solution. The resolution stated that the parties agree on the celebration of unofficial talks and invited them to renew these talks taking into account the efforts made since 2006 and in order to prove their realism and spirit of commitment. The newest point of this resolution, which is also related to the background of the Haidar case, was the reference made in the preamble to the need for progress in the human aspect of the conflict.

(...)

For Spain, Western Sahara is a high priority matter for both the need to resolve such a long conflict that concerns Spanish public opinion so much, and for the strategic importance of the region. Sahara is an open political wound between two neighboring countries with which we must have the best relationship. Our goal is to achieve progress in the process towards an agreement within the UN framework. The principles are a negotiated and mutually accepted agreement, under a UN framework of provisions, pursuant to the principles and purposes of the UN Charter. The corollaries of these principles are: there is not a unilateral solution, and the settlement shall provide self-determination for the people in Western Sahara.

(...)

(T)he Spanish Government has sought at all times for solutions to the situation of Ms. Haidar so that she could return to Laayoune, through direct negotiations with the Moroccan Government, as already noted, but also through multiple means, including the United Nations Secretary-General, Ban Ki-Moon; his personal envoy for Western Sahara, Mr. Ross; United Nations High Commissioner for Refugees, Mr. Guterres; and the High Commissioner of Human Rights, Ms. Navanethem Pillay. Incidentally, in relation to the High Commissioner for Human Rights, I would like to highlight her statements acknowledging the efforts made by Spain at all times in order to ensure the respect for Ms. Haidar’s human rights. (...) The Spanish Government has offered Ms. Haidar, in case of being unable to exercise her right to return home, those solutions in our hands: the access to our territory, the enjoyment of the status of refugee or asylee, and of the Spanish citizenship to which she is entitled as the child of a Spanish woman. I cannot see any political contradiction with her political position of defence of the rights of the Sahrawi people in the fact that she is able to live in Laayoune with a Spanish passport – to which she is entitled – instead of with a Moroccan one, as she has had so far. In none of the cases could the nationality with which she identifies herself be under question, but the way in which she exercises her right to freedom of residence and movement under the present circumstances in Western Sahara.

(...)

The Spanish decision to accept Ms. Haidar's entry into Spanish territory, after the Moroccan authorities had denied her entry, was based on the fact that Ms. Haidar's Spanish residence permit was to be in force until 21 January 2010, according to the implementation of the exceptional circumstances provided by the Spanish Immigration Act.

(...)

The Government is absolutely responsible and comfortable as to the action taken to solve Ms. Haidar's crisis. We acted within the legal framework, motivated at all times by humanitarian reasons and, obviously, by political ones related to the defense of the Sahara, making the necessary political effort in order to reach a solution."

(*DSC-C*, IX Leg., No. 451, pp. 3–5 and 23).

The Government was requested in Congress to express its opinion on whether the solution to the Sahara issue could be achieved through the referendum claimed by the Polisario Front or whether it defended the autonomy proposed by Morocco. On 29 December 2009, the Government stated that:

"Spain has an active commitment to resolve the conflict in Western Sahara (WS) and maintains that the search for a solution to the dispute must be based on the direct negotiations of the Parties within the United Nations framework. This Government grants the highest importance and priority to the UN role in that achievement. We support the UN totally and constantly, as well as the Resolutions unanimously adopted by the Security Council, which try to resolve the dispute in that perspective (1754, 1783, 1813 and 1871 respectively). This policy of the Spanish Government is complemented by the humanitarian commitment of the whole of the Spanish society.

Our political contribution to the search for a settlement within the UN framework is reflected in our performance in the Group of Friends of WS, our support to the Secretary-General's Personal Envoy for the WS, and in the regular contacts with Morocco and the Polisario Front, as well as with Algeria, Mauritania and other countries interested in resolving this conflict.

The latest Resolution, No. 1871 of 30 April 2009, reaffirmed the 'commitment [of the Security Council] to help the parties achieve a just, lasting and mutually acceptable political solution which provides for the self-determination of the people in WS within the framework of provisions pursuant to the principles and purposes of the UN Charter'.

The negotiation between the Parties should define the most appropriate solution which may fulfil the self-determination principle within the legitimacy parameters defined by the UN. Resolution 1871 calls upon the parties to continue negotiations under the auspices of the Secretary-General, in good faith and without preconditions. Likewise, it takes note of the Moroccan proposal [of autonomy], welcomes Morocco's serious and credible efforts, and considers the [referendum] proposal made by the Polisario Front. The Spanish Government supports any proposal of solution agreed by the Parties pursuant to the parameters of UN legitimacy".

(*BOCG-Congreso-D*, IX Leg., No. 318, p. 142).

b) Palestine

On 23 April 2009, the Minister of Foreign Affairs and Cooperation referred, before the Foreign Affairs Committee of the Senate, to the principles that should guide the Arab-Israeli conflict:

“It is also essential to give a definitive impetus to the Israeli-Palestinian peace process. In this sense, the Palestinian side should move forward in building a national consensus Government supported by all political forces and which calls for elections in January 2010, the constitutional term limit. The new Israeli Government should assume, on its part, the existing international commitments in the peace process (...). It is essential, as I have been able to prove in my numerous visits to the region, to maintain the objective of two States, as a result of a negotiated peace, as required by the UN resolutions and International Law”.

(*DSS-C*, IX Leg., No.137, p. 3).

The Minister of Foreign Affairs and Cooperation also commented on the Spanish Government's position regarding the Arab-Israeli conflict in a hearing before the Senate in a plenary session on 20 October 2009:

“The Prime Minister has already said in a press conference, both in Ramallah and Jerusalem, before President Mahmoud Abbas and Israeli Prime Minister, that Spain is willing to look ahead and to prevent situations such as the one lived through in Gaza, and for this we should not judge but act; we should act with political commitment in order to assist the parties to resume negotiations so that this two-State solution can become a reality as quickly as possible. It was announced by the Prime Minister. The Presidency of the European Union will be a very important moment for political commitment on the part of Spain and Europe in favour of peace and this is what we will try to achieve during the six-month EU Presidency corresponding to Spain”.

(*DSS-P*, IX Leg., No. 55, p. 2620).

c) Kosovo

On 26 January 2009, the Government conveyed and based its position regarding the acknowledgement of Kosovo as a sovereign State:

“The Spanish Government has not acknowledged Kosovo's statehood and does not intend to do so in the near future for legal reasons. Spanish position with regard to Kosovo's unilateral declaration of independence is based on the fact that the action mentioned above contravenes International Law and, in particular, those provisions on the principle of territorial integrity and the sovereignty of the States in the UN Charter of 26 June 1945; as well as those in the final Act of the Conference on Security and Cooperation in Europe, signed in Helsinki in 1975; and in Resolution 1244 (1999) by the UN Security Council. The latter resolution guarantees the territorial integrity and sovereignty of Serbia. Therefore, Kosovo's status can only be modified by another Security Council Resolution”.

(*BOCG-Senado*, IX Leg., No. 172, p. 145).

The Minister of Foreign Affairs and Cooperation, Mr. Moratinos Cuyaubé, also referred to Kosovo's situation in a hearing before the Parliament on 23 November 2009:

"We have respected international legality. We will await the decision of the International Court of Justice and, in any case, we will be constructive. We know that twenty two States in the European Union have acknowledged Kosovo's statehood and, therefore, we will do nothing to disturb the proper handling of this matter. The Spanish position is not guided by political expediency, but based on an international legal basis, which is the essential problem. Should the two elements leading us not to acknowledge the unilateral declaration of independence change, or in the event of a Security Council resolution or an agreement between the parties, we will have no difficulty to accept it. We are not going to prevent Kosovo from developing or from institutional or political stability, but do not ask us to do what, under International Law, Spain has not done. Spain has not acknowledged Kosovo's statehood not because of a passing whim, but because we understood what that decision meant. We maintain a constructive position and we will be in contact with the Kosovar authorities in due course within a multilateral framework, and we will do that with European responsibility".

(*DSCG-C*, IX Leg., No. 27, p. 16).

In the oral hearings held before the International Court of Justice regarding the Request for Advisory Opinion submitted by the UN General Assembly, on the Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government in Kosovo, Ms. Concepción Escobar Hernández argued on behalf of Spain that:

"7. (...) I wish to make clear that we entertain no doubt as to the legal nature of the question put by the General Assembly. The question bears a close connection with the interpretation of fundamental norms and principles, and with the norms – no less important in the present case – governing the international regime established by the Security Council for Kosovo, including the process to determine its future status. The legal aspect of these considerations I have just mentioned must not be underestimated, and it calls for a decision by the principal judicial organ of the United Nations.

8. While there are obvious political considerations underlying the question put by the General Assembly, we must not forget that the Court itself has pointed out that this, "in the nature of things, is the case with so many questions which arise in international life" (*Legality of the Use by a State of Nuclear Weapons in Armed Conflict, Advisory Opinion, I.C.J. Reports 1996 (I)*, p. 73, para. 16), but that this fact "does not suffice to deprive it of its character as a 'legal question'".

(...)

14. Spain shares this interpretation insofar as the Declaration is the act which motivated the General Assembly's request and which determines the critical date the Court must look to. Thus, no acts adopted by the provisional institutions of

Kosovo after the Declaration, no acts of recognition adopted by third States and no actions taken by any international organization in respect and on the basis of the Unilateral Declaration of Independence carry any weight for purposes of answering the question formulated by the General Assembly.

15. That said, while Spain concurs that the Declaration should be considered the focus of the request, we cannot subscribe to a strictly literal interpretation of the question put by the General Assembly, because under such an interpretation the Declaration is taken out of its original context.

(...)

18. In other words, the response as to the accordance with International Law of the Unilateral Declaration of Independence must be based on all the norms applicable to Kosovo at the critical date, including in particular the Charter of the United Nations and Security Council Resolution 1244 (1999), and on fundamental principles of International Law. Because, let us not forget, the Kosovo question, like all other situations no matter how complex and special, is subject to the fundamental principles forming the basis of the international legal system.

(...)

23. Moreover, in this resolution the Security Council sketched out a judicious balance among all the interests involved: confronted with a serious situation characterized by extreme conditions putting in jeopardy fundamental principles of International Law and even the protection of individuals, the Security Council did not choose in favour of independence for Kosovo, nor did it state that the Federal Republic of Yugoslavia had lost sovereignty over the territory as a result of these events. On the contrary, in response to this acute crisis, the Security Council confined itself to establishing a well-balanced interim international regime for Kosovo taking account of not only the principle of sovereignty and territorial integrity but also that of self-determination of peoples.

24. An international regime, I would like to point out, incorporating two closely related elements: (i) first, establishment of "an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia"; (ii) second, implementation of a "political process designed to determine Kosovo's future status".

25. These two elements (interim administration and the political process) are the backbones of the international regime for Kosovo and they must be interpreted together, in context. Most importantly, they must be interpreted in the light of the purpose to be served by the Security Council decision, namely: the interim international regime for Kosovo provides for a solution to the crisis there, including the determination of the future status of Kosovo, a solution which must be in compliance with the applicable norms of International Law and with the procedures decided on by the Security Council.

26. The two elements I have just referred to form an inseverable whole and, in Spain's opinion, it is therefore impossible to safeguard the validity and applicability of Resolution 1244 (1999) if only one of them is taken into consideration. As Resolution 1244 (1999) is in force, the inescapable conclusion is

that the interim administration regime continues to apply and that the political process to determine the future status of Kosovo remains open. At least, of course, until the Security Council decides otherwise.

(...)

28. First of all, on the subject of the regime for interim administration, it is undeniable that the Security Council severely curtailed the authority Serbia could exercise over Kosovo. The limitation cannot however manifest itself in the abrogation, or even a breach, of the principle of sovereignty and territorial integrity of the Federal Republic of Yugoslavia. On the contrary, as Spain pointed out in its written statement, recognition of Serbia's sovereignty and territorial integrity is part of Resolution 1244 (1999), forming one of the pillars of the balancing of interests guaranteed by the Security Council by means of that resolution. This interpretation has been confirmed during these hearings in the statements by Argentina, Brazil and China, three States having participated in the negotiation and adoption of Resolution 1244 (1999).

29. Furthermore, while Resolution 1244 (1999) also established a system of self-Government by the Provisional Institutions of Kosovo, that system does not impair either Serbia's sovereignty or its territorial integrity. Thus, for a full understanding of the relationship between these two elements, it must be kept in mind that: (i) as expressly stated in Resolution 1244 (1999), self-Government is exercised "within" the Federal Republic of Yugoslavia; (ii) the self-Government arrangement is an internationalized regime, defined by and subject to norms which are clearly international in nature, including not only the United Nations Charter and Resolution 1244 (1999) but also the Constitutional Framework for Kosovo (approved in an UNMIK regulation) and all other acts adopted pursuant to the Security Council Resolution; (iii) self-Government is subject to monitoring by the international organs created through application of Resolution 1244 (1999); and (iv) the Institutions of Self-Government of Kosovo, which are provisional in nature, were themselves created pursuant to Resolution 1244 (1999), from which they derive their legitimacy. They therefore have the nature of authority under a constitution (*pouvoir constitué*), not constituent authority (*pouvoir constituant*).

30. What is more, it is to be noted that the Provisional Institutions of Self-Government of Kosovo exercise their powers within the scope and limits laid down by the international regime to which they are subject. Consequently, the Provisional Institutions of Self-Government, while characterized as "non-State actors", are bound by all fundamental principles and by the international norms which are part of the regime.

31. Accordingly, from this initial perspective, a Unilateral Declaration of Independence, aimed at creating a new State by means of secession from Serbia, is not in accordance with International Law since it conflicts with the principle of sovereignty and territorial integrity proclaimed and guaranteed by Resolution 1244 (1999).

32. It should be added that the Unilateral Declaration of Independence is moreover an *ultra vires* act incompatible with the regime for the interim inter-

national administration of Kosovo, in that it greatly exceeds the bounds of the status and powers conferred in accordance with Resolution 1244 (1999) on the Provisional Institutions of Self-Government of Kosovo.

(...)

35. Yet another important reason why the Declaration is not in accordance with International Law must be noted: by means of the Unilateral Declaration, one of the parties seeks to arrogate to itself the Security Council's authority to make the final decision on the procedure for the settlement of the Kosovo question. An action which is clearly inconsistent with the powers of the Security Council and its status as the principal organ of the United Nations for the maintenance of international peace and security.

(...)

39. (...) Resolution 1244 (1999) establishes a balance between the two fundamental principles involved. And the self-Government regime for Kosovo is a form of exercise of the right to self-determination, in this case internal in nature and falling within the framework of the interim international regime established by the Security Council.

(...)

42. (...) And it is impossible to identify any new events that happened just before adoption of the Unilateral Declaration of Independence and that could serve as the basis for the exercise of a so-called "right of remedial secession".

43. In conclusion, even if remedial secession were accepted in contemporary International Law, it would not apply in the case of Kosovo. Furthermore, in Spain's view, it is not even possible to identify any operative international norms justifying any such right. On the other hand, as the Committee on the Elimination of Racial Discrimination has said in its General Recommendation XXI: while "ethnic or religious groups or minorities frequently refer to the right to self-determination as a basis for an alleged right to secession", "International Law has not recognized a general right of peoples unilaterally to declare secession from a State".

(...)

47. (...) the Security Council's silence cannot be taken as any kind of acceptance of the Declaration of Independence. It is incorrect to interpret silence in this way, because acquiescence can operate only within concrete, direct legal relations between parties with divergent interests. As it is obvious, this however is not at all true of the Security Council, which by nature plays a clearly institutional role in regard to the Kosovo crisis.

48. But we must also not forget that this conclusion fails to take account of the rules under the Charter of the United Nations governing the adoption of decisions by the Security Council. Under those rules, decisions must be expressly adopted by the Security Council. Accordingly, a "non-decision" cannot be confused with a decision of any sort, let alone with a valid decision to amend, or render legally inoperative, a measure previously adopted by the Security Council on the same subject.

(...)

56. Mr. President, Members of the Court, I am obliged to submit that Spain is firmly convinced that the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo is not in accordance with International Law. The Declaration is not in accordance with the principle of sovereignty and territorial integrity in regard to Serbia. Nor is it in accordance with the interim international regime for Kosovo which was established by the Security Council and remains in effect. Specifically, it is to be noted that the Unilateral Declaration of Independence is not in keeping with application of the Charter and with respect for the powers of the Security Council under Chapter VII of the Charter. Attention should also be drawn to the lack of legal certainty which might arise if any actor, taking unilateral action, could circumvent the authority of the Council.

57. And, to conclude, I would like to make a statement of principle. We are before a court of justice, we have chosen to participate in judicial proceedings and, as a result, Spain cannot fail to comment on the facts that: in this day and age the rule of law, the pre-eminence of law in the international sphere can be neither denied nor abrogated; there is no true peace, and there can be none in the future, without respect for law; and international instability grows out of ignorance of, disregard for, and non-compliance with the law. In short, in response to a policy reliant on action, we invoke the reason of the law”.

(CR 2009/30, p. 8 *et seq.*).

d) Georgia

On 27 January 2009, the Government commented on the position of Spain in the conflict between the Russian Federation, Abkhazia, Ossetia and Georgia, expressing its most scrupulous respect for the principle of territorial integrity of the State:

“Spain promoted the conclusions from the General Affairs and External Relations Council (GAERC) on Georgia, on 15 September 2008. These conclusions stated that the European Union (EU) supported the agreements of 12 August and 8 September which, in a first phase, should have led to the withdrawal of the Russian forces from those areas adjacent to South Ossetia and Abkhazia, to those lines prior to the beginning of hostilities. Likewise, recalling the conclusions of the Extraordinary European Council of 1 September, the European Union urged Russia and Georgia to withdraw all their troops. Furthermore, according to the conclusions of the Extraordinary European Council of 1 September, Spain is also promoting the relations between Georgia and the EU.

From the beginning, after the events taking place last August, Spain has observed the situation in Georgia with great attention and has acted according to the conclusions within the European Union in order to avoid destabilizing effects, not only in Georgia, but also in the whole Caucasus region.

Spain maintains its strong commitment to achieve a solution to the conflict and its strong defense of the principle of territorial integrity of Georgia, consistent with the traditional Spanish position on this matter. This position is championed by Spain at all international forums where the question of the

integrity of Georgia is raised. Therefore, Spain rejects Russia's recognition of independence of Abkhazia and South Ossetia. Spain also contributed to the solution of the conflict by sending 10 observers to the EU Civilian Monitoring Mission (deployed in Poti)".

(*BOCG-Senado*, IX Leg., No. 172, p. 124).

2. Recognition of Governments

a) Honduras

The Minister of Foreign Affairs and Cooperation, Mr. Moratinos Cuyaubé, referred to the situation in Honduras during the plenary session held on 20 October 2009, in the Senate:

"On 28 June, since the coup started, the whole international community – and, of course, Spain, the European Union, the OAS and the Rio Group – condemned said coup and got involved in the search for a diplomatic solution. This diplomatic solution showed the first signs of success thanks to the mediation and the efforts of Mr. Arias, Costa Rica's Prime Minister. Spanish Deputy Prime Minister also met the Secretary-General of the OAS and Mr. Arias during the month of August and, since then, we have coordinated and cooperated mainly along with the United States. I have spoken with American Secretary of State, Hillary Clinton, on three occasions, with the purpose to coordinate our positions and to keep pressure so that the de facto authorities decide and accept the plan of Mr. Arias. (...) As you know, there was a visit of foreign ministers with the participation of the Secretary of State for Latin America, Mr. Juan Pablo de la Iglesia. A dialogue table was opened and texts of agreement are to be closed. Two days ago news was virtually positive. The negotiations are still being held and we hope that we can find a satisfactory solution to this serious crisis suffered by Honduras and Latin America with concerted international support.

(...)

You have referred to military coups and dictatorships, something which had already disappeared in Latin America. In the early twenty-first century, we can not tolerate a military coup and the dismissal of a democratically elected president, who was taken in his pyjamas into a plane and transferred to another destination, preventing him from returning to his country democratically.

Therefore, election must take place, but with due constitutional guarantees. (...) The international community, after three months and a half, remains united as to the demand of return of President Zelaya. The same is demanded by the United States, all the European Union and by the Rio Group. Therefore, we will continue working for a peaceful, political and democratic solution but with the return of President Zelaya".

(*DSS-P*, IX Leg., No. 55, pp. 2618–2619).

In his appearance on 21 October 2009, before the Foreign Affairs Commission in the Congress of Deputies, the Minister of Foreign Affairs and Cooperation declared that:

“(I)f there are no constitutional guarantees or public freedoms, if there is a confrontation atmosphere and a de facto unlawful Government, how can elections be organized or how can monitors be sent? The European Commission has decided not to send any international monitors at the moment. We would like to keep the date of 29 November for the elections, as well as the negotiation in Tegucigalpa is trying to be kept. We will support elections, but only if carried out democratically and with the condition that President Zelaya recovers his position as democratically elected president”.

(*DSC-C*, IX leg., No. 394, p. 27).

V. THE INDIVIDUAL IN INTERNATIONAL LAW

1. Consular Protection

On 5 March 2009, the Government answered in this way to a parliamentary question about its actions regarding Miss María José Carrascosa, a Spanish woman imprisoned in USA:

“Since it was known that Miss Carrascosa was arrested, on 21 November 2006, this affair has been followed up by the Spanish Ministry of Foreign Affairs and Cooperation and by the Consulate General of Spain in New York so as to assure her consular protection.

Likewise, the affair is followed up by the Directorate-General for International Legal Cooperation of the Spanish Ministry of Justice, which exercises the Spanish Central Authority in the Hague Convention on Child Abduction, and which is in contact with the competent American authority.

The legal defence of Spanish citizens before foreign courts does not fall to the State, but to the counsel designated by the individual. The Spanish Consular Representation shall provide, when requested, a list of counsels who may take charge of the case so that the individual in need of these services could contact some and determine who is the most appropriate to exercise the defence of his or her interests. This case was not different; a list of American counsels who might take charge of her legal defence was provided, both to her lawyer in Spain and at her request. The main actions carried out to assure the consular protection and assistance of Miss Carrascosa since her arrest was announced on 21 November 2006 are listed below:

- 22.11.06. Conversation between the Deputy Director General for the Protection of Spanish Citizens Abroad and Miss Carrascosa’s counsel in Spain.
- 23.11.06. Conversation between the Deputy Director General for the Protection of Spanish Citizens Abroad and Miss Carrascosa’s father.
- 26.11.06. Sending, from the Consulate General of Spain in New York to her counsel in Spain, of a list of American counsels who might take charge of her defence.
- 30.11.06. Visit to Miss Carrascosa, in her place of detention, by the Deputy Consul General of the Consulate General of Spain in New York and the Assistant on Legal Affairs of the Consulate.

- 30.11.06. Sending, by diplomatic bag, of a package of medicine to be delivered to Miss Carrascosa, from the Directorate General for Consular Affairs and Assistance to her counsel in Spain.
- 18.12.06. Call from the Consulate to the prison to ask after Miss Carrascosa. Contact with medical service too.
- 16.01.07. Two of Miss Carrascosa's sisters are welcomed at the Ministry of Foreign Affairs and Cooperation by the Director-General of Consular Affairs and Assistance, accompanied by the Ambassador-at-large for Spanish Prisoners Abroad and by the Deputy Director-General for the Protection of Spanish Citizens Abroad.
- 17.01.07. Letter from the Consul General of Spain in New York to the Director of the prison, in which the former shows an interest in Miss Carrascosa's condition and emphasizes her need for the appropriate medical treatment.
- 18.01.07. Meeting at the Ministry of Foreign Affairs and Cooperation between the Director-General of Consular Affairs and Assistance; the Deputy Director-General of Consular Legal Affairs; the Deputy Director-General for Protection of Spanish Citizens Abroad; the Consul General of USA in Madrid, and the Assistant on Legal Affairs of this Consulate. The Deputy Director-General of Legal International Cooperation for the Ministry of Justice attends too.
- 22.01.07. Visit to the penitentiary institution by the Consul General of Spain in New York; he meets the Director of the prison and María José Carrascosa, who thanks in writing for the support received.
- 01.02.07. Visit to the prison and meeting, at the headquarters of the Consulate General of Spain in New York, with Miss Carrascosa's American counsel on the connection with the various court cases opened.
- 08.02.07. Habeas corpus hearing before the corresponding New Jersey Court, with the attendance of the Deputy Consul General and the Legal Affairs Officer of the Consulate General of Spain in New York.
- 24.02.07. Trip to USA of the Deputy Director-General for International Legal Cooperation of the Ministry of Justice, Spanish Central Authority in the Hague Convention on Child Abduction, and of a Professor in Private International Law and legal expert on the interpretation and implementation of the Convention.
- 26.02.07. Meeting of the former at the Consulate General of Spain in New York and Miss Carrascosa's American counsel, who is advised about certain aspects as to the interpretation of the Convention which may be useful for the prisoner's defence.
- 26.02.07. Meeting with the Professor in Private International Law at New York University.
- 27.02.07. Meeting between the Deputy Director-General for International Legal Cooperation and the Spanish Professor in Private International Law, accompanied by a Counsellor of the Spanish Embassy in Washington, and by the representatives of the Office of Children's Issues at the State Department (the American Central Authority in the Hague Convention).
- 27.02.07. Meeting with the Spanish Ambassador in Washington.

- 28.02.07. Hearing before the New Jersey Court of Appeal, with the attendance of both legal experts – the Spanish Deputy Consul General in New York and the Legal Affairs Officer of the Consulate.
- 18.03.07. Visit to Miss Carrascosa at the prison by the Chancellor and the Legal Affairs Officer of the Consulate.
- 27.03.07. Visit to Miss Carrascosa at the prison by the Deputy Consul General and the Legal Affairs Officer of the Consulate of Spain in New York. María José Carrascosa thanks the Consulate in writing.
- 29.03.07. Briefing at the Government Sub-delegation in Valencia between the Deputy Director-General for Protection of Spanish Citizens Abroad (SGPEE) and the representatives of Valencia institutions (the Valencian Autonomous Government and the Council, and the Regional Assembly of Valencia), who have been concerned about the condition of Miss Carrascosa.
- 03.04.07. The New Jersey Court of Appeal issues a decision confirming the First Instance judgment and maintains the imprisonment sentence as long as the child is not transfer to USA.
- 17.04.07. Visit to the prisoner by the Deputy Consul General and the Legal Affairs Officer of the Consulate of Spain in New York.
- 24.04.07. The Spanish Ministry of Foreign Affairs and Cooperation (MAEC) sends, through diplomatic bag, to the Spanish Consulate in New York, a package of medicines to be delivered to María José at the prison.
- 01.05.07. Visit to the prisoner by the Consul General and the Chancellor of the Spanish Consulate General in New York.
- 03.05.07. Meeting at the Ministry of Justice in order to evaluate the case and analyze the legal strategy to be followed. The General Directors of Consular Affairs and Assistance (from MAEC) and of International Legal Cooperation attend this meeting, together with several civil servants from those offices. Advisors of the Minister and of the Secretary of State for Justice together with Advisors of the International Relations Service of the General Council of the Spanish Judiciary attend as well.
- 15.05.07. Habeas corpus appeal hearing in presence of the Consul General of Spain and the Legal Affairs Officer of the Consulate.
- 22.05.07. Visit to the inmate by the Deputy Consul General and the Legal Affairs Officer of the Consulate General of Spain in New York.
- 23.05.07. The Minister (together with the General Director of Consular Affairs and Assistance and the Deputy Director-General for Protection of Spanish Citizens Abroad) receives María José Carrascosa's father and sister, accompanied by their counsel, at the Ministry of Foreign Affairs and Cooperation Headquarters.
- 01.06.07. On the occasion of Condoleezza Rice's, Secretary of State, visit to Madrid, the Ministry of Foreign Affairs and Cooperation shares the concern of the Spanish Government about María José's condition.
- 12.06.07. Visit to the prison by the Deputy Consul General and the Legal Affairs Officer.

- 20.06.07. The Spanish Ambassador in Washington hands over a Note Verbale to the Director for Western Europe of the State Department, where he points out the concern of the Spanish Government about Miss Carrascosa's condition and asks for information about the medical treatment she is receiving.

- 25.06.07. Visit to the prison by the Consul General and the Legal Affairs Officer.

- 02.07.07. Criminal hearing before the Supreme Court of New Jersey, with the attendance of the Consul General and the Legal Affairs Officer of the Consulate.

- 23-10-07. Request for a report by experts on the Hague Conference on the possible means to be followed; preparation of a report to be presented at the Hague Conference on International Child Abduction.

- 12.09.07, 24.10.07 and 02.11.07. Formal request for information on the evolution of the case to the American Central Authorities.

- 02.11.07. Miss Carrascosa's sister is received at the Ministry of Foreign Affairs and subsequently at the Ministry of Justice by the officers in charge of the Spanish central authority in children's issues.

During the following months they carry on working on a possible rapprochement between the Spanish and the American judges and on requesting reports by experts; all of whom agree that an exclusively jurisdictional path may not provide a short-term solution and they insist on the mediation figure.

- 10.04.08. Meeting at the Ministry of Justice with María José's new Spanish counsel.

Considering the long period Miss Carrascosa had been imprisoned without North American Justice having accepted her consecutive petitions for habeas corpus, it was suggested to the counsel and the father that the only possible and reasonable means to achieve her prompt release from prison, and to avoid a possible conviction at the criminal trial, would be to persuade her to reach an agreement with her ex-husband, similar to the one negotiated (with her previous counsel) in July 2007, but sharply refused by María José.

- 05.05.08. Miss Carrascosa's new counsel informs the Directorate-General for International Legal Cooperation of the Ministry of Justice in writing about the basic aspects of their strategy: the shared custody of the child is not accepted, they do not accept any sort of negotiation between Miss Carrascosa and her ex-husband and they deem it ineffective to resort to the Hague International Criminal Court (despite this option had been insistently demanded by the client).

- 14.11.08. Meeting at the High Court of Justice Headquarters in Valencia, with the attendance of Valencian representatives of the judiciary and the prosecution service, as well as with representatives of the Ministries of Foreign Affairs and of Justice, the Spanish General Council of the Judiciary (CGPJ) and the Public Prosecution Service. Valencian judges made their position clear, according to which the case was to be considered *res judicata* and their trip to The Hague to meet the American judges, in order to exchange opinions and share their legal stances to resolve the case, was unnecessary.

Spanish judges admit that New Jersey Courts – in the light of the provisions in The Hague Convention on Child Abduction of 1980 – are the competent authorities to resolve the aspects related to the custody of the child.

After this meeting, the Minister of Foreign Affairs and Cooperation has informed the President of the Valencian Autonomous Government on the matter, and has asked for his collaboration to make Miss Carrascosa's stance more flexible in order to attain her release from prison.

– 09.02.09. After many adjournments, basically caused by the consecutive changes of counsel made by María José Carrascosa, the preliminary hearing (with the attendance of the Consulate General of Spain in New York) of the criminal proceedings against her for international abduction of children finally takes place.

Irrespective of the detailed contacts and actions listed herein, during these more than two years, the Directorate General of Consular Affairs and Assistance has been constantly in touch with the family and their counsels, as the Consulate General of Spain in New York has been in touch with the prisoner, by visiting her periodically (every fortnight) and responding to her demands, sending writings and messages, as well as providing her with all sorts of contacts and communications as far as possible and as it is allowed by the local penitentiary regulations.

Miss Carrascosa has thanked the consular authorities many times for their visits and support, both orally and in writing.

On the occasion of the last consular visit, last 27 January 2009, she gave the Consul a document where she confirmed her stance not to negotiate any solution with her ex-husband and where she plainly forbade any negotiation or transaction which could be made in her name by her family".

(*BOCG-Congreso D*, IX Leg., No. 185, pp. 34–37).

On 24 November 2009, the Government expressed its opinion regarding the obligation to compensate the Spanish victims of the concession of independence to Equatorial Guinea in 1968:

"(...)

In view of the position repeatedly sustained by the Spanish State Legal Service (*Abogacía del Estado*), according to which it does not exist any obligation on the part of the Spanish Government as to the possible damages to Spanish citizens as a result of the independence of Equatorial Guinea (due to its nature of act under International Law) or of subsequent acts by the sovereign Government of said republic, it falls to those who feel their rights have been violated to resort to the courts in Equatorial Guinea. The Spanish Government has committed to offer all possible consular aid to these persons in their private claims".

(*BOCG-Senado.I*, IX Leg., No. 318, p. 13).

The Foreign Affairs and Cooperation Minister, Mr. Moratinos Cuyaubé, in the Plenary Session of the Spanish Senate, celebrated on 15 September 2009, pointed out about this matter that:

“As it has been well pointed out, it stands to reason that the Spanish consular authorities in Equatorial Guinea, and therefore the Embassy, are the best ways to deal with the claims by those Spanish citizens who had to leave Guinea in 1968. However it is necessary to remember that Equatorial Guinea – a Sovereign State which regained its independence in 1968–has the final say when it comes to settling the claims of the citizens.

Therefore, the Government is actually providing consular assistance, as we committed to, both in the Consulate of Bata and the Embassy of Malabo, in order to settle the claims submitted by this group”.

(*DSS-P*, IX Leg., No. 49, p. 2241).

2. Aliens

On 27 May 2009, the Minister of Foreign Affairs and Cooperation replied, in the following terms, to a parliamentary question about the recognition of aliens' rights to vote in local elections, posed in a Plenary Session of the Spanish Congress of Deputies:

“(…)

...The recognition of this right had long been discussed, not only in institutional and academic circles, but also in those fields related to immigration and in the media. They all proposed that the necessary be done, through the implementation of all possibilities offered by Article 13.2 of the Spanish Constitution, in order to recognize the right of alien residents in Spain to vote in local elections. This Chamber pronounced itself on this matter with two motions passed in 2006 in this direction. The Government, on its part, being completely convinced that this was a legal measure in favour of those aliens who live and work in Spain, make use of the same public services and pay taxes as Spanish citizens do, included this measure as one of the aims of the Strategic Plan for Citizenship and Integration, which was passed by the Spanish Council of Ministers in February 2007. The Spanish First Deputy Prime Minister officially announced, on her appearance before the Constitutional Committee of the Chamber on 30 July 2008, that this was the Government' will and informed that necessary action was to be taken henceforward in order to start the negotiations for agreement, under Article 13.2 of the Constitution. We have proceeded in this way. In the last months, the aims set have been promptly achieved. It is true that in August the Government appointed an ambassador-at-large for the Secretariat-General for Consular Affairs and Migration of the Ministry of Foreign Affairs and Cooperation. We appointed him so that he was the only person in charge of the necessary preliminary studies within the Ministry; to coordinate the procedures with other departments in the Administration and to carry out the negotiation of the agreements.

As to the range of countries with which negotiations would occur, it was stated that they would be those countries which had already granted the right to vote to the Spanish citizens living within their territories and that negotiations

would be simultaneous. Therefore, on the one hand, the question of priority in the negotiations would be avoided; and, on the other hand, the aim set by the Government could be promptly achieved. This would apply only to countries other than the EU's, given that EU citizens living in Spain already have the right to vote and to be elected in local elections, by virtue of the Treaty on the European Union. Thus, it was determined that the non-EU countries which met the requirements of granting this right to our citizens were nine Latin American countries – Argentina, Bolivia, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay and Venezuela –, and six countries in other geographical areas – Burkina Faso, Cape Verde, Korea Republic, Iceland, New Zealand and Trinidad and Tobago – (...). On 31 December 2008, the total number of citizens of these countries residing in Spain amounted to 1132319 persons, that is, a very significant number, about 42 per cent of the non-EU citizens living in our country... Negotiations with the fifteen countries aforementioned have already been running for several months, among which twelve are already over. The task has not been easy since these agreements affect a fundamental right such as the exercise of the right to vote; therefore, these agreements require the countries involved to carry out internal proceedings of consultation to several Administration departments and electoral bodies or even, as in the case of Spain, parliamentary authorization.

In Spain, each agreement has been the object of consultations to the Ministries of the Presidency, the Interior, Labour and Immigration and to the Electoral Registration Office. The negotiation of the agreements has been carried out promptly and these ten agreements have been authorized by the Council of Ministers in the following order: with Colombia, Peru, Argentina, Iceland, Trinidad and Tobago, Ecuador, Burkina Faso, Cape Verde, Chile and Paraguay. Most of them have already been signed...the Council of Ministers will consider in the next meeting, in the course of June, the authorization of the agreements with the Korea Republic and New Zealand, whose negotiations have been happily concluded too. These two agreements increase the number of agreements concluded up to twelve, and another three with Bolivia, Uruguay and Venezuela are still ongoing, which, like the previous ones, are expected to be sealed soon. The latter are awaiting internal reports by the corresponding administrations and electoral bodies in order to reach the final stage of text drafting. The content of the agreements responds in any case to the proposal previously made by Spain, which claims that all the agreements include the appropriate clauses for reciprocal recognition of the right to vote as well as a list of the conditions under which this right is exercised in local elections, both in Spain and in the other countries involved. As regards the voting conditions, there are three requirements: first, having resided legally and uninterruptedly in Spain for at least the last five years before the elections; second, appearing on the local electoral register and, third, applying for registration on the resident aliens' electoral roll within the period specified for each election.

(...)"

(DSC-P, IX Leg., No. 87, pp. 38–39).

On 15 June 2009, the Government replied, by providing the information below, to the question raised by a senator about the number of illegal immigrants expelled between 2006 and 2008:

“The actual figures of expulsions of illegal immigrants between years 2006 and 2008 are gathered in the following table on a monthly basis”:

Actual Expulsions	2006	2007	2008
JAN.	1014	669	757
FEB.	1003	928	887
MAR.	1388	1188	764
APR.	879	810	959
MAY	1160	881	983
JUN.	1163	894	969
JUL.	881	682	803
AUG.	750	630	658
SEP.	764	742	858
OCT.	763	696	1003
NOV.	883	651	955
DEC.	725	767	1020
TOTAL	11373	9538	10616

(*BOCG-Senado* I, IX Leg., No. 341, p. 4).

On 14 July 2009, in reply to the questions raised by a member of the Spanish Parliament about the number of illegal unaccompanied minors reported in Spain during 2007, the Government replied that:

“The number of illegal unaccompanied minors found in territorial waters or on the coast in year 2007 was 1128 and the number of those found inland during the same period amounted to 1560. There follows a breakdown into Autonomous Communities, Regions and Nationalities:

AUTONOMOUS COMMUNITIES	MOROCCO	ROMANIA	COLOMBIA	ECUADOR	CAPE VERDE	ALGERIA	GHANA	TANZANIA	MALI	SENEGAL	MAURITANIA	OTHER	TOTAL
ANDALUSIA	579	15	0	0	0	25	0	0	0	0	0	3	622
ALMERIA	160	1				6						1	168
CADIZ	89												89
CORDOBA	21					2							23
GRANADA	165	1											166
HUELVA	1					1							2
JAEN	43	12				3						2	60
MALAGA	15					11							26
SEVILLE	85	1				2							88

Table (cont.)

AUTONOMOUS COMMUNITIES	MOROCCO	ROMANIA	COLOMBIA	ECUADOR	CAPE VERDE	ALGERIA	GHANA	TANZANIA	MALI	SENEGAL	MAURITANIA	OTHER	TOTAL
EXTREMADURA	9	2	0	0	0	0	0	0	10	64	1	6	92
CACERES	5								10	59	1	4	79
BADAJOS	4	2								5		2	13
GALICIA	7	0	0	0	0	0	51	0	13	17	0	3	91
A CORUÑA							4		11	2		3	20
LUGO													0
OURENSE										15			15
PONTEVEDRA	7						47		2				56
LA RIOJA	0	0	0	0	0	0	0	0	0	0	0	3	3
LOGROÑO												3	3
MADRID	190	30	0	0	0	0	0	0	0	42	0	22	284
	190	30								42		22	284
MURCIA	50	3	0	0	0	0	0	0	0	0	0	4	57
	50	3										4	57
NAVARRA	2	0	0	0	0	0	0	0	0	0		0	2
	2												2
BASQUE COUNTRY	196	7	0	0	0	2	0	0	0	0	0	34	239
GIPUZCOA	55	1										7	63
BISCAY	115	2										12	129
ALAVA	26	4				2						15	47
VALENCIA	70	18	8	10	0	0	7	0	0	0	0	45	158
CASTELLON	10											2	12
VALENCIA	28	6	7	6			7						54
ALICANTE	32	12	1	4								43	92
CEUTA	123												123
MELILLA	267											4	271
TOTAL	1967	110	18	17	7	27	65	0	58	197	8	214	2668

(BOCG-Congreso D, IX Leg. No. 262, p. 435).

3. Human Rights

a) *UN Human Rights Committee*

On 26 May 2009, in reply to a parliamentary question related to the Government's appraisal of the criticism received by Spain in the 94th Meeting of the UN Human Rights Committee, the Government stated that:

"The Government respects the final observations of the Human Rights Committee and reiterates its firm commitment to the Covenant on Civil and Political Rights. Likewise, it expresses its total commitment to the strictest observance of fundamental rights and civil liberties, which is a main goal of those Government policies under Spain's international and constitutional obligations.

In this context, the Government welcomes dialogue with the Committee with great expectations, aiming at the improvement of all aspects related to the actual observance of those fundamental rights and civil liberties.

However, as it has been conveyed by the Spanish Government to the Committee proper, the former considers that, in spite of the intense dialogue held as a result of this fifth periodical report, several final observations offer a view of the state of play in Spain which does not either entirely correspond with reality or reflect Spain's written and oral contributions to the process.

In particular, the Government is surprised about the fact that, in its report, the Committee does not admit the advances made since 1996, the year of the last periodical report, or in 2008.

The Government feels obliged to qualify some affirmations made by the Committee. With regard to terrorism, the Committee states that the definition in the Spanish Criminal Code could lead to the violation of some rights under the Covenant, but it does not state the existence of actual true infringement. In fact, the Committee does not specify which the concrete articles are or which rights of the Covenant have been violated by Spain's definition of the terrorism offence in its Criminal Code.

Spain firmly holds that the definition of terrorism in its Criminal Code complies with international legality and, in the regional scope, with the Council Framework Decision of 13 June 2002, on combating terrorism, which is legally binding for Spain and respectful for human rights as they are guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms.

All articles in said Code may be matched to the corresponding ones in the Decision. The Spanish Supreme Court has declared, after a thorough analysis of applicable legislation, the Code's compliance with International Law. Moreover, the Court applies the legislation in a restrictive and scrupulous manner.

In relation to the recommendations for more guarantees as to gagging orders, it must be highlighted that Article 120.1 in the Spanish Constitution provides for gagging orders through the recognition of exceptions to the public nature of judicial proceedings in procedural rules.

Thus, Article 299 and subsequent ones in the Rules of Criminal Procedure, related to gagging orders, establish the circumstances for the issuance of this

sort of order. Therefore, it is necessary to emphasize that gagging orders are not only exceptional, but also motivated acts, with a temporary nature, and which may be appealed by the parties, thereby respecting the principle of procedural equality of the parties.

Lastly, in relation to the revision of solitary confinement rules, it must be emphasized that the Government, in order to fulfil the recommendations made by the different bodies in charge of the promotion and defence of human rights, has included in the Human Rights Plan taken by the Spanish Council of Ministers on 12 December 2008 a series of measures for the improvement of the rights of the prisoners under these rules”.

(*BOCG-Congreso D*, IX Leg., No. 248, p. 1037).

b) Agreements

On 23 April 2009, the Minister of Foreign Affairs and Cooperation pointed out, to inform the Senate’s Committee on Foreign Affairs and Cooperation on the assessment and prospects of Spanish foreign policy, that:

“(…)

The promotion of human rights has always been a priority within our Government’s foreign action, in particular during year 2008, when we submitted our Human Rights National Plan, on the occasion of the 60th anniversary of the Universal Declaration of Human Rights. Furthermore, Spain has started procedures to sign and ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, subscribed by the UN General Assembly on 10 December 2008. The aim of said procedures is to turn the Covenant into a legally binding instrument as soon as possible, since these rights become even more necessary in a situation of economic crisis such as the present one, apart from establishing a unified view on human rights (...).”

(*DSS-Comisiones mixtas*, IX Leg., No. 137, p. 5).

In reply to a parliamentary question posed in Congress, on 2 November 2009, the Government pointed out that:

“The Ministry of Foreign Affairs and Cooperation informs that Spain’s consent to the International Convention for the Protection of All Persons from Enforced Disappearance was ratified on 24 September 2009.

(…)

With regard to the Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes against Humanity, it must be said that the said Convention affects various assumptions in Article 94.1 of the Spanish Constitution, so previous authorization by the Spanish Parliament is needed in order to express Spain’s consent to it”.

(*BOCG-Congreso D*, IX Leg. No. 306, p. 176).

c) Non-discrimination

Note: See XIII.2.c) *Non-discrimination* and XIII.14.a) *Human Rights*

d) *China*

Note: See XIII.2.a) *China*

e) *Cuba*

Note: See XIII.2.b) *Cuba*

On 26 February 2009, the Government replied in the following terms to a parliamentary question about the opening of the Cuban regime and the respect for human rights in Cuba:

“(…)

...the Government has neither «demanded» nor intends to “demand” that Cuban authorities undergo a peaceable transition to democracy, being convinced that a demand in those terms would be doomed to failure and it even could bring about counterproductive effects. However, the Spanish Government keeps on asking for advances in the field of human rights on the part of the authorities in the Island. The 3rd Official Session on the Bilateral Dialogue Mechanism on Human Rights, celebrated on 16 January last in Havana, has been a great opportunity to convey once more a series of clear messages in that direction. It must be taken into account the fact that, since then, Cuba has ratified the International Convention on Enforced Disappearances and its authorities have announced their decision to invite UN Special Rapporteur Against Torture to visit the Island on a date to be determined”.

(*BOCG-Congreso D*, IX Leg., No. 190, p. 338).

As to the same issue, on 3 November, the Government replied in the following terms to several questions posed in the Senate:

“The existence of political dialogue and of a dialogue mechanism on human rights between the Spanish and the Cuban Governments allows the former to raise, before Cuban authorities, the matter of political prisoners and the situation of human rights in Cuba. Conversations held between the Foreign Affairs representatives of both countries addressed these issues in a constructive and respectful manner, with the conviction that dialogue and negotiation will contribute to the recognition of and the respect for human rights in Cuba, without any of the issues being a priori excluded from this process of consultation and dialogue.

Thus, during the dialogue sessions on human rights, the Spanish Government has addressed the situation of political prisoners, especially, the delicate situation of those suffering from health problems”.

“The Government considers that the formalization of the dialogue between Spain and Cuba has been useful mainly to hold an open communication channel with Cuban authorities in order to constructively tackle matters of common interest. The visit of the Spanish Minister of Foreign Affairs and Cooperation in April 2007 was returned in October 2008, when Cuban Foreign Affairs Minister,

Mr. Felipe Pérez Roque, visited Spain; one year later, another visit to Cuba has been paid.

The establishment of political dialogue was accompanied by the agreement on the resumption of cooperation between Spain and Cuba. This circumstance contributed to the delivery of emergency humanitarian aid by Spain in Cuba last year, on the occasion of the two devastating hurricanes, Ike and Gustav. It is worth remembering that Cuban authorities allowed only the entry of aid from two European countries, namely Spain and Belgium, since the Cuban Government is normally reluctant to such cooperation. Early in October 2009, the 8th Joint Cooperation Committee between Spain and Cuba was held in order to revise and update the framework within which the Spanish cooperation in Cuba is developed. As to Economy and Finance, negotiations on the Cuban external debt with Spain have started.

On the other hand, it must be highlighted that on the human rights sphere there have been some positive steps as to the subscription and ratification of international conventions; Cuba's participation in mechanisms for the revision of human rights; the assessment of the situation of penitentiary institutions and of some prisoners with health problems, some of whom have been released".

"During the visit to Cuba of the Spanish Minister of Foreign Affairs, in April 2007, it was agreed with the Cuban Government to hold political consultations, including a dialogue on human rights between both countries. As it is stated in the agreement reached, dialogue on human rights has the aim of promoting and protecting all human rights for everyone, as well as of contributing to the efficient, constructive and non-discriminatory treatment of the subject in international forums. Other democratic countries, like Switzerland and Norway, hold similar bilateral mechanisms on human rights with Cuba and, in June 2008, the Council of the European Union decided to start political dialogue with Cuba as well.

Subsequently, three official sessions on the dialogue mechanism on human rights have taken place, in Cuba and Spain alternately. Next session should take place in Spain at the beginning of next year. On the other hand, the situation of human rights in Cuba is not addressed exclusively in this session, but it is present, at different levels, in the whole political dialogue with Cuba.

The agenda of dialogue on human rights considers matters such as the collaboration with UN human rights mechanisms – including periodical revisions by the Human Rights Council or the visits of UN Special Rapporteurs to Cuba –; the exchange of information on the subscription of international instruments on human rights protection; every aspect of the Cuban penitentiary system, both institutional and human ones; or the celebration of seminars on specific matters for experts, academics and civil servants.

The results of this process, in which Spain is not the only participant, may be appraised in the sense that the Cuban Government has shown signs that, through dialogue, it is willing to assume several commitments. For instance, in April 2007 the release and transfer to Spain of some political prisoners and their closest relatives was accomplished. Soon after the second official session

on dialogue on human rights, at the beginning of 2008, Cuba proceeded to sign both UN International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights respectively, although it has not ratified those Covenants yet. Cuba has also announced the forthcoming invitation to the Special Rapporteur Against Torture, whose convention has already signed and ratified. In February 2009, Cuba ratified the Convention against Enforced Disappearance as well, and has held, since 2003, a de facto moratorium of death penalty. Cuba shows more interest in collaborating in international forums on human rights, and in 2009 submitted its national report before the Human Rights Council in Geneva”.

(*BOCG-Senado I*, IX Leg. No. 372, pp. 62–64).

4. Nationality

On 25 June 2009, in reply to the question raised by a senator about the reasons for the increase in the number of aliens who had obtained the Spanish nationality between 2003 and 2006, the Government declared that:

“Spanish Act 36/2002, of 8 October, on the amendment to the Spanish Civil Code as to nationality matters, which came into force on 9 January 2003, introduced important novelties as to the access to nationality (the right to opt for those whose father or mother were originally Spanish citizens born in Spain without age limit; the possibility to access to the Spanish nationality for those persons born outside Spain whose grandparents were originally Spanish citizens, provided that the former have legally resided in Spain for a year at least; and no requirement that the persons reject their previous nationalities, for those recovering the Spanish one) which led to an increase of Spanish nationals”.

(*BOCG-Senado I*, IX Leg. No. 287, pp. 160–161).

On 3 November 2009, the Secretary of State for Justice, in reply to some questions posed by a deputy as to the nationalities granted by virtue of residence since 2000, declared that:

“(…) ”

...The number of nationalities granted by virtue of residence since 2000 has been: 11 996 in year 2000; 16 735 in year 2001; 21 805 in year 2002; 26 554 in year 2003; 38 334 in year 2004; 42 832 in year 2005; 62 339 in year 2006; 71 806 in year 2007, and 84 171 in year 2008.

(…) ”

The number of requests for the acquisition of Spanish nationality by virtue of residence submitted since January 2009, according to the latest figures available – from October –, amounts to 125 869.

Questions four and five...refer, firstly, to the number of requests for the acquisition of Spanish nationality submitted by the children or grandchildren of those persons who were originally of Spanish nationality, under the seventh additional provision in Act 52/2007, of 26 December; as well as to the number granted. Secondly, they refer to the number of requests for the acquisition of

nationality through letter of naturalization submitted by volunteers of International Brigades, under Article 18 of the aforementioned Act.

In relation to the requests for nationality submitted by the children and grandchildren of Spanish citizens, figures in September 2009 were the following. There have been submitted 117 449 requests, among which 55 000 have been passed. Likewise, there are 17 requests for acquisition of nationality through letter of naturalization submitted by volunteers of International Brigades. Sixteen out of them have been passed and, unfortunately, one of them has been filed due to the applicant's decease.

(...)"

(*DSC-Comisiones*, IX Leg., No. 403, p. 4).

VI. STATE ORGANS

On 11 June 2008, the Spanish Minister for the Interior, Mr. Pérez Rubalcaba, informed the Senate on the reasons why the Government had decided to set up Departments of the Interior in Spain's Permanent Diplomatic Missions in 25 countries:

"(...), in the previous term of office we adapted what could be called the Ministry of the Interior's administration abroad to specific requirements..., basically, to the fight against international terrorism, organized crime and illegal immigration. These are three fields where work abroad and cooperation with other countries, or with those with which we share these problems, become essential.

As a consequence of the deployment abroad of this administration under the Ministry of the Interior, dependent on the corresponding embassies (...) those who occupy these positions are members of the State Security Forces – police officers or gendarmes. Their work, as I have already explained, basically consists of cooperating with the Security Forces in the countries concerned about the three issues mentioned above: international terrorism, illegal immigration and organized crime. Let me show you an example. In Africa, we have set up such units in Algeria, Morocco and Senegal, the three countries with which we co-operate the most as to State Security Forces issues, precisely in these three fields.

These departments belong to the Embassies, as every service abroad, but they are functionally dependent on the Ministry of the Interior, since their work is that of police cooperation".

(*DSS-P*, IX Leg., No. 7, pp. 237–238).

VII. TERRITORY

Note: See VIII. Seas, Waterways, Ships

1. Territory Division. Frontier

With regard to the non-government bill for the negotiation of an agreement with the Kingdom of Morocco as to the establishment of a commercial frontier in Ceuta,

approved by the Foreign Affairs Committee in its meeting of 25 November 2009, the Secretary General of the Congress of Deputies reported, on 11 December the same year, that:

“The Congress of Deputies urges the Government to open negotiations with the Kingdom of Morocco, in the most suitable moment for their success, so that Ceuta houses a commercial customs office on the Tarajal frontier”.

(*BOCG-Congreso-D*, IX Leg., No. 308, p. 10).

2. Colonies

a) Gibraltar

Regarding the defence of Spain’s legal authority over the waters surrounding Gibraltar, and in response to a question raised in Congress about the Government’s appraisal of the statements by the Chief Minister of Gibraltar, Mr. Peter Caruana, about the colony’s claim for the control over half of the Algeciras Bay, the Government replied, on 6 November 2009, that:

“The position maintained by the Government of Gibraltar as to the waters in the Algeciras Bay has not been altered and is limited to the endorsement of UK’s position, which considers that the UN Convention on the Law of the Sea is applicable to these waters, and claims the waters to the East of the median line in the Bay, from the straight baseline up to the West of the fence which constitutes the Northern limit of the Isthmus, illegally occupied by the United Kingdom.

The Spanish Government, as all previous Spanish Governments, rejects the British claim. Whenever deemed necessary, the Spanish Governments have declared by the appropriate instruments that, in relation to Gibraltar, they do not recognise the power of the UK over territories other than the ones expressly granted by Article X of the Treaty of Utrecht, of 3 July 1713”.

(*BOCG-Congreso-D*, IX Leg., No. 286, p. 182).

On 8 October 2009, in reply to a question raised before the Congress about information or requests for permits conveyed to the Spanish Government by the United Kingdom or Gibraltar, as to the performance of the Europe India Gateway project (EIG), which implied the laying of fiber-optic cable in the Spanish waters surrounding the Rock of Gibraltar, the Government replied the following:

“In accordance with usual practice in such cases, the Government has received timely notice and request for authorization from the company carrying out the project”.

(*BOCG-Congreso-D*, IX Leg., No. 300, p. 744).

On 1 October 2009, in response to a question raised in Congress as to the number of incidents occurred in waters near Gibraltar between Spanish patrol boats and ships of the Gibraltar Police and the British Royal Navy, the Government expressed that:

“Since the establishment of the Provincial Maritime Service (SMP) of Algeciras, there have been two incidents between ships of said Provincial Maritime Service and those of the Gibraltar Police and the British Royal Navy.

On 15 August 2005, after a patrol boat of the Spanish gendarmerie had seen a ship suspected of carrying hashish, said ship was called to a halt. As the suspect ship did not obey either acoustic or light signals, a pursuit began. Thus, it entered into the port of Gibraltar followed by the patrol boat of the Spanish gendarmerie until Gibraltar’s Maritime Police, previously contacted by the latter, had the suspect ship intercept.

On 10 April 2009, a rigid-hulled inflatable boat of the Spanish Gendarmerie Maritime Service saw, about 10 a.m., a boat sailing out of the port of Gibraltar towards Linea de la Concepcion (Cadiz). When the suspect boat noticed the presence of the Spanish gendarmerie, it reversed its direction and sailed back to Gibraltar at high speed. Therefore, the Civil Guard crew decided to await there in order to be able to intercept the ship in case it tried to sail out again.

While in that position, a patrol boat of the British Royal Navy showed up, which left the area by 10:30 a.m. – it has not been able to determine whether said ship aimed its weapons at the Spanish gendarmerie ship or not –. Subsequently, two patrol boats of the Spanish Gendarmerie Maritime Service appeared in order to control the possible departure of the suspect ship, and they left the area when they deemed that the ship would not try to sail out again.

However, it must be pointed out that, as to crime prosecution, except for isolated cases, collaboration between Spanish and British police forces in Gibraltar is fully satisfactory”.

(BOCG-Congreso-D, IX Leg., No. 263, p. 101).

On 7 January 2009, in response to the question posed before the Congress about the Government’s knowledge on the construction of a new port and the large filling works carried out in Gibraltar, in the area of Catalan’s Bay, the Government replied that:

“It is understood that the works referred to are the ones within the so-called Eastside project. In this regard, it must be pointed out that the Spanish Government has been aware of these works since 1997. These works were already the object of investigations by the European Commission in 1998 as to a possible breach of the 85/337/EEC Directive.

However, between 2005 and 2008, the Spanish Government repeatedly conveyed to the United Kingdom its refusal as to the filling works, expressing its concern about the possible environmental consequences of the project in the entire region. This project has also been raised on several occasions in the meetings of the Forum for Dialogue on Gibraltar”.

(BOCG-Congreso-D, IX Leg., No. 133, p. 105).

On 8 October 2009, in relation to the information above and in order to answer the question posed before the Senate on the ongoing filling works in the Eastside of the Rock of Gibraltar, the Government explained that:

“(...) The filling works were carried out in the late nineties, nearly a decade ago, and were the object of Verbal Notes of protest to UK authorities and of the corresponding complaint before European Union institutions, not only because of the filling activities and their environmental impact, but also because of the origin of such fillers, mainly construction rubble and urban and industrial waste. In addition, they were performed in coastal areas whose little depth makes them really sensitive.

Furthermore, in the last three years, the Government has sent four Verbal Notes of protest to the British Government about the environmental impact and the possible infringement of EU conservation legislation caused by the real estate and port development which Gibraltar has planned to build over these fillers”.

(*BOCG-Senado-I*, IX Leg., No. 325, p. 23).

In response to several parliamentary questions raised in Congress as to the nuclear activities in Gibraltar, the advent of nuclear submarines to its military base and the existence of an updated security plan against nuclear accidents and incidents in the Bay of Algeciras (Cádiz), on 9 July 2009, the Government informed that:

“The Government’s policy on the visits of nuclear submarines to the port of Gibraltar aims at the protection of the citizens of Campo de Gibraltar. Therefore, regarding the stopovers and visits of nuclear-powered submarines to Gibraltar, the Spanish Government requires that these visits be performed with the maximum guarantees of security for local inhabitants.

In this sense, the letter sent by the British Secretary of Foreign Affairs to the Spanish Minister of Foreign Affairs, on 27 February 2006, accepted the requirement of the Spanish Government that those visits be produced with the maximum guarantees of security for the inhabitants in the area.

The Spanish Ministry for the Defence has a Nuclear Emergency Plan (PENAR), which was developed and promulgated by the Navy on 24 March 1988. As a complement to PENAR, the Navy also developed an Environmental Radiation Monitoring Plan (PVRA), whose latest version was approved on 30 November 2007.

The Navy has Task Forces for Environmental Radiation Monitoring (GOVRA). These forces have the equipment to measure radioactivity, which is periodically calibrated in order to achieve the most accurate measurement. The action protocols applied are correct.

Finally, as provided in Act 11/2002 of 6 May, on the regulation of the National Intelligence Center, this public body, in compliance with the objectives and functions assigned to it under the current legislation, collects and reports to the national authorities the information and confidential data necessary to prevent and avoid any hazard, threat or aggression against national interests.

In addition, the United Kingdom has committed to give immediate notice and to collaborate with all competent authorities in the event of an accident involving the reactor of a nuclear-powered submarine to be transferred to the port of Gibraltar”.

(*BOCG-Congreso-D*, IX Leg., No. 57, p. 238).

On 29 September 2009, in connection with the issue aforementioned, the Spanish Government was asked in Congress about its intention to address, during the next meeting of the Tripartite Forum for Dialogue, the constant arrival of ships and submarines with nuclear power and/or nuclear weapons to the military base in Gibraltar, to which the Government responded that:

“Government’s policy in relation to the visits of nuclear-powered submarines to Gibraltar’s port is devised for the guarantee and the protection of the security of citizens in Campo de Gibraltar, which determines the criteria for the dissemination of the confidential information received for this purpose.

Therefore, in the event of arrival to Gibraltar of ships and submarines with such features, security protocols followed are those established by NATO, and NATO’s current security protocols on the treatment of classified information are strictly observed as well”.

(*BOCG-Congreso-D*, IX Leg., No. 262, p. 593).

Regarding the Forum for Dialogue on Gibraltar, in response to a question raised before the Senate on the Government’s purposes and objectives, on 22 September 2009, the Government reported that:

“The Forum for Dialogue on Gibraltar, as established in the Joint Communiqué of 16 December 2004, by the Spanish Ministry of Foreign Affairs, the British Foreign and Commonwealth Office and the Government of Gibraltar, aims to create a constructive atmosphere of mutual trust and cooperation for the benefit and prosperity of Gibraltar and the whole region, especially in Campo de Gibraltar”.

(*BOCG-Senado-I*, IX Leg., No. 309, p. 48).

As to the venue of the meetings within the Forum for Dialogue on Gibraltar, in response to a question raised in Congress, the Government replied, on 3 March 2009, that:

“The venue of these Meetings responds to rotation criteria. The previous meetings were held in Cordoba (2006) and London (2008) respectively, the reason why Gibraltar would host the upcoming one”.

(*BOCG-Congreso-D*, IX Leg., No. 157, p. 226).

In the same meeting, regarding the Government’s opinion on the Cordoba Agreements within the Tripartite Forum, the Government explained that:

“The Cordoba Agreements, the Forum for Dialogue and all other commitments entered into within the Forum seek for a solution to the everyday problems faced by Gibraltar’s citizens, and they respond to the will to improve cross-border cooperation.

In particular, the Forum’s work, at a first stage, has been focused on issues such as the use of the airport, the pensions of the former Spanish workers in Gibraltar, smooth border crossing, telecommunications and the opening of a Centre of the Instituto Cervantes in Gibraltar. Some of these matters have a very direct impact on the population in Campo de Gibraltar.

At a second stage, the Forum's work has been related to other possible areas of cooperation (maritime communications, environment, visas, police and judicial cooperation, financial services and taxation, education) which, when implemented, will also have a direct impact on the population in Campo de Gibraltar".

(*BOCG-Congreso-D*, IX Leg., No. 157, p. 225).

With reference to the 2nd Ministerial Meeting of the Forum for Dialogue, on 7 January 2009, the Government responded the following to a written question in Congress:

"(...) On 2 July 2009, the 2nd Ministerial Meeting of the Forum for Dialogue was held in London as well. There, Spanish and British Foreign Ministers, together with Gibraltar's Chief Minister, analyzed progress achieved as to the implementation of the Cordoba Statements on pensions, telecommunications, the airport, smooth border crossing, and the opening of a Centre of the Instituto Cervantes in The Rock. In said meeting, the Ministers reiterated, in a Ministerial Declaration, their will to keep the constructive atmosphere of mutual trust and cooperation for the benefit and prosperity of Gibraltar and the whole region, especially in Campo de Gibraltar, and to ensure that cooperation and mutual trust become a standard practice.

In the abovementioned Statement made in London, the Ministers expressed their support to the general objectives in the upcoming agenda, which includes cooperation on environment; financial services and taxation; judicial, customs and police cooperation; education; maritime communications and visa issues, in order to reach agreements, where possible, in the future Ministerial meetings of the Forum.

As it occurred with the Ministerial Statement of Cordoba, the Ministers confirmed that the cooperation agreements on the aforementioned areas shall have no implications whatsoever as to sovereignty and jurisdiction. Likewise, they pointed out the fact that such agreements shall be compatible with those obligations under EU instruments and international conventions which are binding for the participants".

(*BOCG-Congreso-D*, IX Leg., No. 133, p. 104).

Regarding the outcome of the third ministerial meeting of the Forum for Dialogue on Gibraltar, on 21 October 2009, the Minister of Foreign Affairs, who appeared voluntarily before the Foreign Affairs Committee of the Congress, informed that:

"(...) The ministerial meeting held on 21 July last in Gibraltar was the third of its kind after those held in Córdoba in year 2006, and in London in 2008 (...). Neither the celebration of the third ministerial meeting nor the fact that it was held in Gibraltar implied the renunciation or damage to the Spanish claim over Gibraltar's sovereignty. In this sense, great attention was paid to the organizational details of the meeting in order to avoid any possible misunderstanding or malicious interpretation.

As I have reiterated on many occasions, my Honorable members, the essence of the forum for dialogue is to safeguard the respective positions of the par-

ticipants to the sovereignty matter, in order to make progress in the field of cooperation for the benefit of the citizens in Campo de Gibraltar and Gibraltar. The aim of Spain as to Gibraltar has not changed in 305 years and it will not change until sovereignty issues are resolved. This goal will not be abandoned by any Spanish Government, and I explicitly declared so during the joint press conference with the British Minister and Gibraltar's Chief Minister, after the ministerial meeting, in response to the questions posed by both Spanish and Gibraltarian journalists on the issue. In addition, the Government continues to work at a suitable pace and with the necessary procedures in order to resume, when circumstances are appropriate, negotiations on sovereignty with the United Kingdom. What has actually been changed, in view of the failure to settle the dispute after 305 years of infinite attempts, is the method to achieve this goal. With the forum for dialogue, my Honorable members, the Government of Spain has decisively opted for cooperation (...).

(...) The most responsible strategy is to cooperate, safeguarding the position of sovereignty, in order to address practical problems faced by citizens, moving forward rather than backward, with the essential purpose of resolving sovereignty issues. Regarding cooperation, it must be emphasized that the results of the ministerial meeting have been particularly profitable. Participants have agreed on the framework for cooperation. Six are the areas of vital interest for citizens: environment; maritime communications and security; education; judicial, customs and police cooperation; finance and taxation; and visa issues. There has been adopted an appendix to the final statement, providing for the aims to be attained in each of the areas, as well as for the devices and procedures necessary to attain them (...). Moreover, these extremely ambitious objectives are not mere well-intentioned desires, since in the very final communiqué of the meeting we committed to reach agreements on the six areas, preferably before the end of the year and, in any case, before the next ministerial meeting, which will be held in Spain (...).

(...) Pursuant to the agreements and with the purpose of fulfilling this commitment, the technical forum met on 15 and 16 October in London (...). During the meeting, there were adopted a schedule and a waybill (...).

(...) The territorial waters issue, which was a discussed element decisive in the arrangement of the visit to Gibraltar and the celebration of the 3rd Forum for Dialogue on Gibraltar, was put on ice, as it was done with all other elements where consensus was missing. We deem that these are not British territorial waters, that there are no territorial waters (...). As we do not recognize British territorial waters, we do not discuss about them; we put the issue on ice and address sovereignty matters as a whole (...). The issue was put on ice and an agreement was reached on the discussion at a European Commission level. Subsequently, other relevant issues included in the agenda of the Forum for Dialogue on Gibraltar were discussed (...).

(...) The dispute has been running for 305 years so far and, unfortunately, the goal shared by all Spaniards, that of recovering sovereignty over Gibraltar, has not been achieved yet (...). We are studying a new strategy on the part of the

Spanish Government, but which does not renounce, as we have said, to any aspect of our claim. I stated it in Gibraltar, not only before this Chamber or before a forum in Madrid. I stated it loud and clear, in the very Rock of Gibraltar before Gibraltarians, the Chief Minister, and the Secretary of the Foreign Office, that Gibraltar was Spanish (...). Among the matters of State in the foreign policy field – of which I am fully aware –, this is an outstanding one (...).

(...) If you attended the sessions of the House of Commons or the UK Parliament, you would find no division between UK parties in matters of State or as to the Gibraltar issue. On the contrary, you do disagree. For the first time, there are explicit differences in this Chamber regarding the Gibraltar policy; for the first time. This only weakens the position of Spain and its citizens in the achievement of a final settlement to the dispute (...).

(...) As for the competent authorities, we have signed a new agreement through which this 'opinion-box-system' is established, a system which has proved to be beneficial and still is. But in order to speed up procedures, there have been established categories where the competent authorities' intervention may be easier (...).

I have been asked about the airport. Negotiations have progressed a lot. A new technical meeting will be held (...).

(...) We have reached an agreement with the UK regarding the repair of vessels and submarines with nuclear capabilities (...).

(...) We have a solution for the pensions of the Spaniards who worked in Gibraltar (...).

(...) I will read out the text which Jack Straw sent to me on 28 March 2006, regarding this subject (self-determination and the appearance before the UK Parliament). It clearly establishes their position and proves that the Spanish Popular Party's concern has no sense. It is related to the new Gibraltar Constitution. It is a document on the Gibraltar issue, distributed by the Ministry of Foreign Affairs, where on page 166, the last two paragraphs say: 'The new Constitution provides for a modern relationship between Gibraltar and the UK. This Constitution does not in any way diminish British sovereignty of Gibraltar, and the UK will retain its full international responsibility for Gibraltar, including for Gibraltar's external relations and defence, and as the Member State responsible for Gibraltar in the European Union. Gibraltar will remain listed as British Overseas Territory in the British Nationality Act of 1981, as amended by the British Overseas Territory Act 2002'. Last paragraph: 'As a separate territory, recognised by the United Nations and included since 1946 in its list of non-self governing territories, Gibraltar enjoys the individual and collective rights accorded by the UN Charter. Her Majesty's Government therefore supports the right of self-determination of the people of Gibraltar, promoted in accordance with the other principles and rights in the UN Charter, except' (except, except) 'in so far only as in the view of Her Majesty's Government, which it has expressed in Parliament and otherwise publicly on many occasions, Article X of the Treaty of Utrecht gives Spain the right of refusal should Britain ever renounce Sovereignty. Thus, it is the position of Her Majesty's Government that

there is no constraint to that right, except that independence would only be an option for Gibraltar with Spain's consent'.

Without Spain's consent, the right to self-determination does not exist nor does Gibraltar's independence. This is sufficiently clarifying, forceful and legally valid (...)"

(*BOC-C-IX* Leg., No. 394, pp. 4–14).

In response to a question raised in the Senate on Spain's governmental actions to increase the low social benefits paid to the Spanish workers in Gibraltar, on 8 October 2009, the Government replied that:

"Since the late sixties, historical circumstances have prevented a large number of Spanish workers resident in Spain from working in Gibraltar anymore and therefore from contributing to the Gibraltar Social Insurance Fund (GSIF).

The UK Government became aware of the financial imbalance suffered by the GSIF as a result of the disparity between the workers' contributions to this Fund and the higher pensions to which they became entitled after Spain's accession to the European Union in 1986. Consequently, in 1996, the United Kingdom assumed indefinite responsibility over the financing of those GSIF pensions for Spanish workers prior to 1969. As part of these agreements, pensions were frozen at the rate they were in 1988.

Pursuant to the spirit of the Tripartite Forum of Dialogue on Gibraltar, the Governments of the United Kingdom, Spain and Gibraltar, according to their wish to improve local cooperation and relations and to resolve some of the related problems, reached a full and definitive agreement on pensions and related issues, in the terms set out in the Ministerial Statement on Pensions (Cordoba, 18 September 2006).

The agreement reached in Cordoba will apply to those Spanish nationals still alive, who resided in Spain but worked in Gibraltar, and therefore had contributed to the GSIF prior to 1969. In spite of being entitled to a pension from the GSIF, as a result of the closure of the frontier/gate of Gibraltar in 1969, they could not continue working in Gibraltar or contributing to the GSIF, or receiving a pension from the GSIF. These workers shall not have resumed their contributions to the GSIF after 1969 and shall be EU residents at present. The agreement will also apply to other pension beneficiaries, such as widows. The Statement refers to the beneficiaries of the agreement as the 'Spanish pensioners affected'.

All Spanish pensioners affected are entitled to the agreed solution. Its request is voluntary and, by its virtue, all workers are treated equally. All payments are financed and performed by the United Kingdom.

The UK offers a lump sum to those Spanish pensioners affected so that they abandon the GSIF and renounce to further claims in relation to it. This lump sum takes into consideration the fact that, unlike the elderly living in Gibraltar, Spanish pensioners affected –whose pensions were very low due to incomplete contribution records– have not been able to access to any other sources of financial support since 1989, when Gibraltar pensions were frozen, in spite

of being EU residents. The lump sum is to be paid in two installments – the first installment in April 2007 and the second in April 2008. For informational purposes only, the overall sum amounts to an average of 6.200 Euro.

Should Spanish pensioners affected accept the offer by the United Kingdom, they will receive the payments to which they are entitled from a Non-contributory Plan created and funded by the UK for this purpose. Payments under this Plan will be equivalent to former GSIF pensions, increased in the amount due, should pensions have undergone the corresponding annual updates since 1989 to April 2007, in accordance with Gibraltar's Consumer Price Index. Updated payments to be made will correspond with UK's Consumer Price Index.

Those Spanish pensioners affected who choose not to accept the offer and not to abandon the GSIF shall not be entitled to receive, and shall not receive, any lump sum. These pensioners shall continue as GSIF members and, therefore, shall receive their pensions from the GSIF. Pensions for this group of pensioners (including potential future updates of Gibraltar's pensions approved by its Government) shall be paid by the United Kingdom.

The lump sum, but not the future payments, shall be paid to the heirs of all pensioners affected who have formally accepted the offer in due time, but whose decease occurs before the payment of the full amount has taken place.

The heirs or relatives of those Spanish pensioners who do not accept the offer aforementioned are not entitled to claim the lump sum or any other future payments.

Although under EU Law Spain has the right to claim reimbursement or compensation for the costs of the benefits in kind received by the Spanish pensioners affected, there shall be no alterations in the current agreement.

This agreement leads to the greater economic security of the Spanish pensioners affected. Furthermore, those accepting it shall receive a lump sum for abandoning the GSIF. All Spanish pensioners affected shall thereby be treated equally as to the calculation of the financial offer made to them".

(BOCG-Senado-I, IX Leg., No. 325, pp. 23–24).

In response to various questions raised in Congress, on 3 March 2009, the Government answered the following in relation to the appointment of a Special Delegate of the Ministry of Foreign Affairs and Cooperation for Campo de Gibraltar and the opening of a centre of the Instituto Cervantes in Gibraltar:

"The future Instituto Cervantes and the Delegation of the Ministry of Foreign Affairs and Cooperation in Campo de Gibraltar are independent bodies and their functions are completely different.

On the one hand, the Instituto Cervantes is an institution created for the promotion and teaching of the Spanish language and for the dissemination of Spanish and Latin American cultures. On the other hand, the main objective of the Special Delegate of the Ministry of Foreign Affairs in Campo de Gibraltar is to strengthen the capacity for coordination and cooperation with authorities in the area and to improve the management mechanisms in the Gibraltar issue, such as the Forum for Dialogue. His functions consist of improving dialogue

with authorities in both Gibraltar and Campo de Gibraltar, of intensifying contacts with them and of carrying out a more timely and accurate monitoring of the activities developed in The Rock.

The Special Delegation of the Ministry of Foreign Affairs and Cooperation is already operative as it already existed. The said Delegation had been run by a Special Delegate until the mid-eighties (...). The Office (...), located in Algeciras (Cadiz), is housed in Edificio Capitanía del Puerto, Avenida de la Hispanidad.

The Office in Gibraltar has been strengthened by the appointment of the Special Delegate of the Ministry of Foreign Affairs in Campo de Gibraltar, a post which had been vacant. The main objectives of this appointment are – to increase the efficacy of the Office on Gibraltar Issues of the Ministry of Foreign Affairs and Cooperation; to make information available to the inhabitants in Campo de Gibraltar as to the policy of the Ministry of Foreign Affairs and Cooperation in relation to Gibraltar; to increase the capacity for coordination and cooperation with local authorities; and to improve management mechanisms in the Gibraltar issue, such as the Forum for Dialogue”.

(*BOCG-Congreso-D*, IX Leg., No. 157, pp. 222–226).

VIII. SEAS, WATERWAYS, SHIPS

Note: See VII.2.a) *Gibraltar*; X.1.a) *Marine Pollution* and IX. International Spaces

1. Baselines

On Tuesday 15 December 2009, the Congress Plenum unanimously approved the allowance of the non-government bill submitted by the Mixed Group on the delimitation of Canary Islands’ maritime areas. The non-government bill by the Mixed Group on the delimitation of Canary Islands’ maritime areas was defended by Mr. Perestelo with the following words:

“(...) The bill is so simple that it may be fully explained under the heading of its only article. The delimitation of Canary Islands’ maritime areas is demarcated by the perimeter linking the most prominent points of the islands and islets in both ends which comprise the Autonomous Community of the Canary Islands, according to its Statute of Autonomy. The delimitation of said area is established through a polygon made up of straight baselines whose vertex correspond with the most prominent and remote points of the islands and islets, as laid down in the annex to the bill. Inter-insular waters are those within the perimeter previously defined.

All other internationally recognised maritime areas shall be measured from the straight baselines comprising the Archipelago perimeter (...).”

(*DSC-P*, IX Leg., No. 131, pp. 12–17 and 43).

2. Internal Waters and Territorial Sea

Note: See VIII.5. Fisheries

In response to a Parliamentary question posed before the Congress regarding the reason for authorising the prospecting works in Spanish jurisdictional waters carried out by the firm Odyssey, on 3 March 2009, the Government reported that:

“In 2005, through Verbal Note No 241/18, of 28 July, addressed to the US Embassy in Madrid, the firm ‘Odyssey Marine Exploration’ was authorized to undertake operations to identify the wreck of the ‘HMS Sussex’, subject to the conditions laid down by the Andalusian Government and the Ministry of Culture.

On 25 January 2006, through Verbal Note No 12/11 to the US Embassy, notice was given that ‘Odyssey Marine Exploration’ had to suspend its operations since it had not complied with the requirements set out in Verbal Note 241/18, of 28 July.

In 2007, no authorisation was issued to ‘Odyssey Marine Exploration’ for the identification of the ‘HMS Sussex’, since the conditions to carry out the identification of the ‘HMS Sussex’ were the only element agreed by the Ministry of Foreign Affairs and Cooperation and the British Embassy in Madrid”.

(*BOCG-Congreso-D*, IX Leg., No. 157, p. 185).

In response to a question raised in Congress as to the restitution of those parts of Gibraltar’s Nature Reserve affected by the oil spills resulting from the latest maritime accidents, on 17 August 2009, the Government informed that:

“On 10 October last year, Cepsa refinery in Algeciras reported a spill of around 200 litres of light fuel oil as a consequence of an incident during the unloading of an oil tanker. On that day there was no notice that the fuel oil had reached beaches or caused any damage.

On the following day, 11 October, ‘Fedra’ vessel ran aground on Punta Europa and ‘Tawe’ vessel ran aground on Chinarral beach, in Algeciras Bay, both causing oil slicks which affected various coastal areas.

As a result of these situations, both the National Contingency Plan and the Regional Emergency Plan of the Andalusian Government were activated through the implementation of the response mechanisms devised. Subsequently, on 21 October last, ‘Tawe’ vessel was refloated after the removal of the 150 tons of light fuel oil in its tanks, without further spills. In ‘Fedra’ case, no new spills were detected after the initial one and the vessel’s breakage into two.

In addition to the above-mentioned actions to palliate the damage caused by these incidents, the Government has planned other actions for the study in depth of the Spanish coast, especially of the Algeciras Bay. They consist of the compilation of an Atlas on the sensitivity and risks of Spanish coasts as to oil spills, and of a study of the vulnerability to spills of this kind of the Algeciras Bay, since it has become, together with the Strait of Gibraltar, one of the most vulnerable areas in our coastline.

The aim is to analyse the specific problems posed by the heavy maritime traffic in the area and by vessel fuelling operations, as well as to determine the most sensitive areas and the protection measures necessary to face any potential incidents”.

(*BOCG-Congreso-D*, IX Leg., No. 248, p. 839).

3. Continental Shelf

a) West of the Canary Islands

On 26 May 2009, in response to a question posed in the Senate regarding the reasons for the Government's sending of a Verbal Note to the UN Commission on the Limits of the Continental Shelf, on the extension of the continental shelf to the west of the Canary Islands, the Government explained that:

“On 8 May last, the Minister of Foreign Affairs informed the Cabinet about the sending of the Verbal Note (...), effective as of 13 May 2009. This is a preliminary step necessary to achieve the extension of the continental shelf and Spain's rights over it (...), to assume all rights under the continental shelf regime defined in the UN Convention on the Law of the Sea. In other words, Spain would have full sovereign rights for prospecting and exploitation purposes of the natural resources. Such an extension of Spain's rights shall not alter the rules governing other maritime areas under Spanish sovereignty and jurisdiction, particularly fisheries regime, which shall remain unchanged (...) Sovereignty and jurisdiction over an area of approximately 206,000 square kilometres.

The proposal could not have been submitted ten years after the entry into force of the UN Convention on the Law of the Sea – the deadline ended on 13 May 2009 –, the reason why the Government decided to exercise its option at that time. Otherwise, Spain would have irrevocably lost its right to do so in the future. Moreover, this initiative has been coordinated together with our Portuguese neighbours.

As it is known, Portugal and Spain have not defined the boundaries between their continental shelves yet. However, what could be a source of friction has been seized as an opportunity for cooperation, since an agreement has been reached with Portugal to declare that our proposal is compatible with a possible similar proposal in favour of Madeira. The mutual understanding establishes that none of the two proposals shall neither prejudice nor be detrimental to a subsequent lateral delimitation between the continental shelves of both States, expanded in the Madeira-Canary Islands area (...).

(...) I must explain, however, that the Note does not affect either the internal distribution of competences between the State and the Autonomous Community, or the applicability, to the Canary Islands, of the archipelagic status provided in part IV of the UN Convention on the Law of the Sea of 1982. As I have said, this is an initiative aimed at the expansion of Spain's rights to a new stretch of Atlantic waters strictly (...). The sole purpose of the Government's

action is to extend Spain's sovereign rights in those waters in the West of the Canary Islands".

(*DSS-P*, IX Leg., No. 41, pp. 1855–1857).

In relation to the question above, as a reply to the question posed before the Senate about the current status of the Verbal Note submitted before the UN Commission on the Limits of the Continental Shelf, as to the extension of the continental shelf to the West of the Canary Islands, on 16 December 2009, the Government reported that:

"The Permanent Mission of Spain to the United Nations submitted, by the due date (11 May 2009), a Verbal Note to the UN Secretary-General, accompanied by a Preliminary Report on the limits of the continental shelf extending beyond the 200 nautical miles measured from the baselines used to delimit Spain's territorial sea in the area situated to the West of the Canary Islands.

This Verbal Note was submitted before the UN Commission on the Limits of the Continental Shelf and published on the Commission's webpage (http://www.un.org/Depts/los/clcs_new/clcs_home.htm). It is available by clicking on 'Preliminary Information'.

Once the necessary oceanographic surveys have been completed, in due course Spain will provide the Supplementary Information required by the UN Commission on the Limits of the Continental Shelf so that the latter examines the Spanish proposal".

(*BOCG-Senado-I*, IX Leg., No. 382, p. 127).

b) Argentina

On 17 August 2009, in response to a question raised in Congress as to the request made by the Argentinean Government to extend its territorial waters beyond 200 miles, and as to its impact on the Galician fleet fishing in these waters, the Government replied that:

"The Government is aware of the request by the Argentinean Government to extend its continental shelf up to 350 miles (not its territorial waters, as stated in the question by my Honourable Members, since territorial waters cannot be extended beyond 12 nautical miles measured in relation to straight baselines, as provided in Article 3 of the UN Convention on the Law of the Sea (UNCLOS).

The Argentinean request is made under Article 76 of the UNCLOS, which allows coastal States to extend their continental shelves beyond 350 miles, should conditions in said Article be met, without prejudice to those delimitations between neighbouring States or States in a dispute. As the Argentinean request is legitimate (provided that the UN Commission on the Limits of the Continental Shelf approves it), Spain has no reason to object in this respect.

However, it is important to consider that Article 77 of the UNCLOS only recognises the rights of coastal States to prospect and exploit the natural resources of their continental shelves – namely, mineral and other non-living resources

in the seabed and subsoil, as well as the living organisms of sedentary species, that is to say, those organisms which remain immobile in the seabed or in the subsoil during the exploitation period or those which are only able to move when in constant contact with the seabed or the subsoil. Article 78 clearly establishes that State's rights over the continental shelf do not affect overlying waters.

Under these conditions, it looks as though the Argentinean claim may not affect the exploitation of squid or hake, as suggested in the question, since those species would not be included in the right to exclusive exploitation of coastal States in the shelf. Nevertheless, it shall imply some restrictions where the exploitation of these species affects the exploitation of other over which the coastal State does possess exclusive rights.

Therefore, the potential extension of the Argentinean continental shelf, provided that the UN Commission on the Limits of the Continental Shelf approves it, shall not affect either the interests of joint enterprises or those of vessels flying the Spanish flag which operate in South-Western Atlantic. Nonetheless, the Government will closely monitor the development of the claim in order to protect, as it always does, the sector's interests abroad".

(*BOCG-Congreso-D*, IX Leg., No. 248, p. 1698).

4. High seas

Note: See IX. International Spaces

5. Fisheries

Note: See IX. International Spaces and X. Environment.

a) Mauritania

On 9 July 2009, in reply to a parliamentary question posed before the Congress on the measures to maintain fishery agreements with Mauritania after the recent coup d'état, the Government reported that:

"Following the political events that took place last summer in Mauritania, the Commission considered to propose that Member States examined the possibility to suspend or modify their cooperation with the African country, under Art. 96 in the Cotonou Agreement. On 29 August, a decision was adopted by the Commission Members to postpone, under Art. 36 of the Protocol, the payment of the financial contribution until the new Government of Mauritania had guaranteed its strict observance of the terms in the Agreement and the commitment to devote part of the sum to the development of the country's fishing sector.

Consequently, on 29 September, EU Fisheries Ministers authorised to unblock the financial contribution established in the Agreement as the consideration for allowing the European fleet in its fishing grounds. Said authorisation followed the confirmation by the Fisheries Commissioner that a letter from the Mauritanian authorities had been received, where the latter committed to comply with the

terms of the Protocol on the Implementation of the Agreement with Mauritania, one of the most important for the EU fleet, especially for the Spanish one. In any case, neither the coup d'état nor the postponement of payment affected the Spanish fleet fishing in those waters".

(*BOCG-Congreso-D*, IX Leg., No. 237, pp. 160–161).

b) World Summit on Sustainability

On 22 September 2009, the Government replied the following to a question posed before the Senate on the World Summit on Fisheries Sustainability:

"For the first time, the World Summit on Fisheries Sustainability has been held in the context of the World Fishing Exhibition of 2009. Nowadays we believe it essential, urgent and necessary to reconcile the economic profitability of the sector and the fishing industry with the conservation of the seas, their vulnerable ecosystems and their fishing species. In this forum there has been discussed a new model of fisheries management for the upcoming years, based on four key points – the ecosystems approach, the fight against undeclared unregulated illegal fishing, the improvement of governance and responsible trade.

Spain has been a leading proponent of sustainability, based on the multilateral action, the enhancement of coordination, cooperation and the fishing control and management of those mechanisms by all countries. This first world summit has been a turning point as to the exploration, the redefinition and the agreement on a new global orientation mapping out the future of fisheries in the upcoming years. It shall imply a new approach to structural problems, be scientifically reliable, improve our knowledge on the resources and the situation of the marine environment, and incorporate new technologies.

(...), there was a final unanimous agreement on the part of the attending parties – State, representatives for the fisheries sector, ecology organisations and members of the scientific community. They all understood the message the Spanish Government attempted to convey, that sustainability is the only possible way to guarantee the future of the fishing activity in all its aspects and sides. The Government feels satisfied, as it is our duty and our obligation to contribute to the inclusion of sustainability in the sector's structure and management, in fishing enterprises and industries, and to provide clear, transparent and universal ground rules. It is our duty and our obligation to combat shadowy areas in the fisheries scope, which harm the legitimate interests of responsible countries, sectors, industries and firms. In short, this summit and this conference of fisheries ministers are cornerstones for the fisheries policy of the 21st century".

(*DSS-P*, IX Leg., No. 51, pp. 2353–2354).

c) Gulf of Cádiz

On 30 November 2009, in reply to a written question on the Government's plan to ensure that Judgment of 22 December 2008, by the Court of Justice of the European Community, for failure to control illegal fishing, has a minimum impact, the Government stated that:

“On 22 December 2008, the Court of Justice (Second Chamber) delivered Judgment on Case C-189/07, the Commission v. the Kingdom of Spain, for non-compliance with Regulation (EC) No 2847/1993, through which a system of control, applicable to European fisheries policy, was established.

The said Judgment was the result of the complaint filed before the Commission by the *Asociación Consejo Ibérico de la Defensa de la Naturaleza* (Spanish Council for the Defence of Nature), where it was denounced that fish of certain species under the minimum size permitted pursuant to Community regulations were being sold in Andalusian markets. The complaint referred exclusively to the failure to comply detected in the Gulf of Cádiz, where under-sized hake and anchovy were being sold.

Therefore, it must be clarified, so as to leave no doubt on the matter, that this Judgment makes no reference whatsoever to other Spanish fisheries or to further failure to comply with European regulations related to the Common Fisheries Policy (CFP) (...).

(...) Control of the fishing activity in the Gulf of Cádiz presents a number of peculiarities deriving from the geographical area, the specific nature of the fishing activity, the regulations themselves, both Community and national, etc., in view of which it is both necessary and desirable to adopt a specific approach to the inspection and surveillance measures of fisheries to be applied. These circumstances have led to draft a plan of action for fisheries surveillance and inspection in the Gulf of Cádiz, in cooperation with the competent authorities of the Andalusian Government (...).

(*BOCG-Congreso-D*, IX Leg., No. 300, p. 472).

On 2 December 2009, in answer to a question raised before the Committee on Environment, Agriculture and Fisheries of the Spanish Congress, the Government added to all stated above that:

“As to the subject of my appearance today to answer the question on the Judgment by the Court of Justice, you are well-informed, it dates back to the year 2000, as a result of a complaint made in connection with the sale of immature fish. And, on the part of the State’s Central Administration, I may assure you that authorities responsible for the surveillance control and inspection are working extremely hard to avoid sanctions, for there is only a court judgment so far, but no economic sanction imposed on Spain. As you may know, the control of the fishing activity in the Gulf of Cádiz presents certain peculiarities derived from the geographical area and from the specific nature of the fishing activity, which does not make it convenient to adopt a differentiated approach as to the fisheries inspection and surveillance measures to be applied. In order to address the issues raised in that judgment, and to enhance the effectiveness of the control mechanisms of the fishing activity in the Gulf of Cádiz, there has been devised a plan of action for the surveillance and inspection in the area, with clearly defined objectives – first of all, to achieve a high degree of excellence in the control, surveillance and inspection of the extractive activity, the sale and the consumption of marine organisms of unauthorised sizes or

those still immature. All this in order to remove them from auctions, wholesale and retail markets and catering establishments; and to improve the start and management of sanctioning proceedings and the effective enforcement of the sanctions imposed (...).

(...) Irrespective of the distribution of competences, Spain's Secretariat for Marine Affairs (*Secretaría del Mar*) drew up a comprehensive and integrated plan encompassing all administrations – State's Administration, the Ministry of Environmental, Rural and Marine Affairs, and the Regional Administration (the Andalusian Government). According to the competent fields involved, coordinated action is taken within the operative framework I am to detail. First of all, a collaborative agreement for mutual assistance and cooperation between our Ministry and the Autonomous Community of Andalusia in matters of control and inspection. Secondly, a specific plan of joint action as to the control of inspection in the fishing activity in the whole Andalusian Region. And, finally, a plan of joint action to improve fishing surveillance and inspection in the Gulf of Cádiz. Said plan contemplates the possibility of undertaking a scientific follow-up by the administrations aforementioned, and also by the European Commission. As a consequence, joint/coordinated measures by both administrations are taken as to control and inspection matters, in order to improve the surveillance system in the Gulf of Cádiz (...).

(...) To conclude,...Spain's Secretariat for Marine Affairs, more specifically the Sub-directorate General of Fisheries Inspection, is implementing a plan of action for the surveillance and inspection of fisheries in the Gulf of Cádiz. Therefore, all the means at our disposal are operative, in order to improve the effectiveness of the inspection and control activities in the area. Moreover, we are confident that all these measures will bring about the desired results so that considerations in the judgment to which you have referred will shortly cease to be valid and there will be no need to apply well-known Article 228."

(DSC-C, IX Leg., No. 442, pp. 9–11).

d) Bluefin Tuna

In reply to a question posed before the Congress, on 25 June 2009, as to the letter sent by the European Commission to Spain in order to recall the illegal nature of authorising the fishing of Mediterranean bluefin tuna of under 30 kg, the Government stated that:

"The Multi-annual Recovery Plan for Bluefin Tuna was approved during the annual meeting of the International Commission for the Conservation of Atlantic Tuna (ICCAT) in 2006, with the object to assure the long-term sustainability of the species. The said Recovery Plan was incorporated into EU legislation by virtue of Regulation (EC) No. 1559/2007, of 17 December 2007.

In view of the socioeconomic importance of the recovery and protection of this species for the various sectors involved in the exploitation of the resource, the Spanish Government actively participated and cooperated in the drafting of both regulations in all forums where the issue was discussed.

After their publication, the Spanish Government took internal measures, by means of Legal Act ARM/1244/08, of 29 April 2008, which regulates bluefin tuna fisheries in the Eastern Atlantic and the Mediterranean, in order to assure the proper and effective implementation of this Recovery Plan in the Spanish fisheries sector (...).

(...) Spain has adopted more restrictive measures than the ones provided for in EU regulations, namely, the definition of a close census of those vessels authorised to catch bluefin tuna; the distribution of individual quotas for the authorised vessels, irrespective of their length; the introduction of the bluefin tuna catch document and compulsory individual labelling, prior to the entry into force of ICCAT Recommendation 07/10 of 2007 (...).

(...) A letter was received from the European Commission as to the implementation of Regulation (EC) 1559/2007 and the possibility to catch 2 per cent of the Total Admissible Catch (TAC) of Mediterranean bluefin tuna of under 30 kg.

Those conclusions drawn by your Honourable Member cannot be inferred from the content of the letter from the Commission. Neither can illegality be put forward as to the contravention of EU legislation, more in particular, of Legal Act ARM/1244/2008, of 29 April 2008, on the regulation of bluefin tuna fisheries in Eastern Atlantic and the Mediterranean, passed in order to assure the effective implementation of the Recovery Plan in the Spanish fishing sector.

(...) It is necessary to specify certain points of negotiations carried out during the annual meeting of the International Commission for the Conservation of Atlantic Tuna (ICCAT), in which the Multi-annual Recovery Plan for Bluefin Tuna was approved, being eventually incorporated into EU Law through Regulation 1559/2007, as noted earlier (...).

(...) During the Commission's internal debates in Dubrovnik, after the first draft plan had been presented, Spain drew attention to the need for some flexibility as to the minimum sizes to be applied to the tuna fleet, an artisanal coastal fleet, with non-freezer vessels. Therefore, Spain requested that a proportion of at least 3 per cent of the quota be included, in particular for the catch of bluefin tuna between 8 and 30 kg for small-scale line-fishing fleets.

After long debates, the Commission agreed to include this measure in the Plan, albeit it reduced the percentage to a maximum of 2 per cent of the quota, aware that potential damage to small-scale fleets due to the over-capacity of industrial fleets had to be prevented.

When the agreement was incorporated into EU legislation by virtue of Regulation (EC) 1599/2007, as to its application scope, there was established in Article 7 the possibility to 'assign 2 per cent of the EU quota for bluefin tuna between 8 and 30 kg to those artisanal coastal fisheries with non-freezer vessels in the Eastern Atlantic', which does not prohibit Mediterranean catches (...).

(*BOCG-Congreso-D*, IX Leg., No. 229, pp. 191–192).

In reply to a question posed before the Senate, on 22 September 2009, regarding those measures to be adopted by the Ministry of Environmental, Rural and Marine Affairs as a result of the European Commission's decision to close bluefin tuna fisheries in the Mediterranean prematurely, the Government stated that:

“Commission Regulation (EC) No. 530/2008, of 12 June 2008, establishing emergency measures as regards purse seiners fishing for bluefin tuna in the Atlantic Ocean, east of longitude 45 °W, and in the Mediterranean Sea, in its Article 3, Section 2, establishes that ‘It shall be allowed to land, place in cages for fattening or farming and to tranship in Community waters or ports of bluefin tuna caught in the Atlantic Ocean, east of longitude 45 °W, and the Mediterranean Sea by purse seiners flying the flag of, or registered in Spain until 23 June 2008’. Therefore, the regulation only affects the purse seiner fleet (6 vessels) of the province of Tarragona.

As for the fleet with home port in the province of Almeria, oriented to the catch of bluefin tuna through surface longliners, it will remain active until all vessel’s individual quotas have run out.”

(*BOCG-Senado-I*, IX Leg., No. 309, p. 20).

On 21 July 2009, in reply to a question tabled in the Senate as to the number of tons up to which the quota claimed by the Government had amounted, pursuant to the distribution carried out by the International Commission for the Conservation of Atlantic Tuna (ICCAT), the Government answered the following with regard to trap-fishing vessels in the province of Cadiz:

“ICCAT Recommendation of 5 June 2006 had already established the Recovery Plan for Bluefin Tuna in the Eastern Atlantic and the Mediterranean and had envisaged a reduction of the TAC from 28,500 mt. to 27,500 mt., in 2009.

However, during the Organisation’s annual meeting in Morocco, last November, the TAC was set in a total of 22,000 mt. This figure is above the one proposed in the report by the Scientific Committee, which proposed a total of 15,000 mt., even if it implied a reduction of 18% of the TAC originally set for year 2009.

Spain’s share of the overall TAC for 2009 (22,000 mt.) shall be 4,116, which will enable the fishing sector to continue its activity until the species has recovered. Spain’s corresponding quota, as there have been no changes in internal distribution criteria, shall allocate 26.44% of its share to trap-fishing vessels next season.

We will have to wait for the quota exchanges between EU countries in 2009, to see to what extent trap-fishing vessels could profit. The Government has made and continues to make all necessary efforts before the European Community, a Contracting Party to the ICCAT, in order to protect bluefin tuna, for the benefit of the sector, and to persuade other countries to adopt, as Spain has done, all urgent measures available for the control of the fishing effort and capacity. In fact, the Recommendation adopted by general consent during the annual meeting, binding for all members of the Regional Organization, reflects many of the proposals and requests made by Spain, which have already been applied to our fleet. For instance, the obligation that every country submits a Fisheries Plan for all authorised trap-fishing vessels and other authorised ships and to allocate individual quotas to them.”

(*BOCG-Senado-I*, IX Leg., No. 287, pp. 128–129).

6. Ships

Note: See IX. Internal Waters and Territorial Sea, IX. International Spaces and X.1. *a) Marine Pollution*

a) Maritime Safety

On 17 August 2009, in response to the two questions raised in Congress regarding the presence of scrap vessels and nuclear submarines in the Andalusian coast, from year 2004 to 2007 and in 2008's first semester, the Government reported that:

“The records of the *Sociedad de Salvamento y Seguridad Marítima* [the Spanish Rescue and Maritime Safety Body] contain no reference to ‘scrap vessels’ as a type of vessel. Scrap metal is normally carried by vessels classified as ‘bulk carrier’, ‘dry cargo’ or ‘general cargo’.

Since the International Maritime Organisation does not consider scrap metal as hazardous merchandise, vessels carrying cargoes of this kind are not obliged to declare them when reporting, as it is compulsory, on their passage through those maritime traffic separation schemes where reporting is required, that is, through Finisterre and the Strait of Gibraltar.

Nuclear submarines are not covered by the current regulations on vessel traffic monitoring and information. Royal Decree 210/2004, of 6 February 2004, excludes vessels for national defence from its scope of application. The Ministry of Foreign Affairs and Cooperation decides whether to authorize the entrance of warships in Spanish waters”.

(*BOCG-Congreso-D*, IX Leg., No. 248, p. 978).

That very same day, in reply to another question posed in Congress regarding the submission of proposals before the European Union in order to undertake maritime surveillance projects in the Mediterranean Sea in view of the risk of pollution due to maritime traffic through the Strait of Gibraltar, the Government reported that:

“European Commission’s Directorate-General for Maritime Affairs and Fisheries (DG MARE) issued a call for proposals for a project on the integration of Member States’ maritime surveillance information on the Mediterranean area and its Atlantic approaches.

This call is part of the new European Common Maritime Policy, whose chief point of interest is integration in the various ambits – information, systems, activities, etc. The resulting project’s aim is not to undertake surveillance projects but rather to integrate already existing information sources, actions and achievements into a system which is common to the geographical framework for which the call has been issued.

Where the Ministry of Public Works is concerned, this integration process is already a reality. Maritime surveillance information related to maritime safety and marine pollution is currently shared by Member States through the systems developed by the European Maritime Safety Agency (EMSA) for that purpose.

Specifically, the said information and data networks are:

- SAFESEANET, the network designed to be the only global source of information on maritime safety within the Community sphere and,
- CLEANSEANET, the marine pollution surveillance network developed by the EMSA, which supplies satellite images and data to provide alerts and information to Member States. These two networks are under process of expansion and interconnection. Spain has been a very active participant in their construction from their implementation. These two information networks encompass all necessary information for the development of the Ministry of Public Works' activity.

Finally, it must be pointed out that the Ministry of Public Works always cooperates in projects of this kind from the standpoint of an end-user, with a view to making the appropriate contribution as to the user interface, the availability of computer tools, connections with other networks, the assessment of the utility of results, etc”.

(BOCG-Congreso-D, IX Leg., No. 248, p. 1177).

b) Emergencies

On 13 April 2009, in response to a question posed in Congress regarding compensation measures envisaged for the environmental damage caused by the vessel *New Flame*, which sank in waters close to Gibraltar, the Government reported that:

“After the accident of the vessel *New Flame*, the Ministry of Environmental, Rural and Marine Affairs developed a scheme for the prevention of and the struggle against potential pollution caused by the Panamanian vessel. This scheme was added to those preventive measures implemented at sea by *Salvamento Marítimo*, the Spanish maritime rescue body.

The initial scheme of the Ministry of Environmental, Rural and Marine Affairs comprised 40 labourers, each with his individual PPE (Personal Protective Equipment), three trucks and two mechanical shovels. They were also equipped with a one-kilometre absorbent barrier supplied by *Salvamento Marítimo*.

The scheme was flexible so as to increase, where necessary, those means and personnel required according to circumstances. Thus, in spite of the decrease of waste, a surveillance scheme and an emergency patrol were kept on duty. Furthermore, ‘Titan Salvage’, the firm engaged by the vessel’s insurers, carried out a series of operations as part of its contract, under the supervision of Gibraltar authorities.

In addition to these specific measures adopted after the *New Flame* accident, the Government is aware of the sensitivity of the Algeciras Bay as a coastal environment subject to frequent oil spillages. The Ministry of Environmental, Rural and Marine Affairs will therefore carry out a study to analyse these specific problems and to determine the areas of highest risk, as well as those protective measures necessary to tackle possible incidents successfully”.

(BOCG-Congreso-D, IX Leg., No. 183, p. 100).

IX. INTERNATIONAL SPACES

1. Indian Ocean

a) *Hijacking of the Alakrana Vessel*

In her intervention before the Plenary Session of the Parliament, on 25 November 2009, the Spanish First Deputy Prime Minister, Ms. Fernández de la Vega Sanz, reported the following on the release of the *Alakrana* vessel:

“(...) I am here today to account for the Government’s management as to the hijacking of the *Alakrana* vessel and its 36 crew members, who have already been released, to the satisfaction of one and all.

On 2 October last, the *Alakrana* vessel was hijacked (...). From the first day to the very last, the Government has applied the only principles admissible in a State under the Rule of Law – that is, the Law, and national and international rules. And we are satisfied with the outcome, since today the hijacked vessel, now released, is ready to set sail once more, and its crew members are already home (...).

(...) Spanish fishing vessels have been operating in the Indian Ocean since 1984. 50 per cent of world tuna catches are extracted from this area. At present, the fleet operating there under the Spanish flag comprises 13 vessels, along with other 9 flying flags of other countries but with Spanish interests. In these 22 vessels, which double the number of vessels of other nationalities operating in the area, 520 out of 1 200 crew members are Spaniards. Indian Ocean fishing grounds are thereby turned into a hub for our canning industry. However, it is also a dangerous Ocean. Only a few days ago, the UN Secretary-General presented a report on the fight against piracy in the Indian Ocean, where it is stated that, between January and September of this year, there have been 160 incidents in the area, 34 of which culminated in hijackings. Just during 2009’s first term, 61 incidents were reported in the Gulf of Aden and the Somalia Basin, compared to the 6 reported in the same period of 2008.... In April 2008, another Spanish fishing vessel, *Playa de Bakio*, was also hijacked and released in these same waters. At that time, the Spanish Government proposed a series of initiatives to the United Nations and the international community in order to combat piracy and help improve the security in the area. Specifically, it was the Spanish Government that headed the action by a group of countries persuading the United Nations to adopt Resolutions 1814, 1816, 1838, 1846 and 1851, which now legally cover the fight against piracy in the Indian Ocean. It was also this Government that promoted the first naval action to be undertaken by the European Union, Operation *Atalanta*, to which twelve countries contribute now. Likewise, in other initiatives and as a response to shipowners’ demands, it has been the Spanish Government that has managed to create a liaison between Spanish and French associations of shipowners through the operational military staff in the Operation *Atalanta*. Recently, we have also attained the provision

of private security for fishing vessels and fishermen, total and at every level; the commitment to the fight against piracy, total and at every level; the will to keep on working for the improvement of the security of vessels and their crews, total and at every level (...).

(...) On 2 October last, a vessel under the Spanish flag, the *Alakrana*, joined the now long blacklist of vessels hijacked off the coasts of Somalia. However, the account of the events occurred from that day on had actually begun earlier, two days before precisely, (...) when the *Alakrana* was approximately 300 nautical miles away from Mogadishu. (...) The skipper managed to broadcast a distress signal; this was received by *Alakrana*'s auxiliary vessel, *Alakrantxu*, which informed the shipowner and the entire fleet in the Indian Ocean (...). The alarm was raised. Around seven-thirty, the Spanish Ambassador in Kenya and the President of the Association of Spanish Shipowners informed about a possible hijacking, which would be definitively confirmed later on. The ambassador immediately reported the hijacking to the Spanish Minister of Foreign Affairs, who was in Copenhagen together with the Prime Minister to promote Madrid as a candidate for 2016 [Olympics]. The latter contacted *Alakrana*'s owner, who was in Tanzania at that moment and travelled immediately to Nairobi. In the meanwhile, the activation of the tracking device had already been ordered by the *Atalanta* Operation command (...). In Spain, (...) after all protocols had been activated and the first steps had been taken, the hijacking of the *Alakrana* was officially announced.

Back to the place and time of the events, once the hijacking had been confirmed, the most important thing was to verify not only the position of the vessel but also the course it would take and, above all, the conditions of the 36 crew members on board (...). The *Alakrana*, which had been forced by the pirates to head south towards the Somali coast, specifically towards the port of Drawe, was kept under the constant surveillance of *Atalanta*'s operations centre and the Fisheries Monitoring Centre (...). The situation remained unchanged until nine twenty-four, according to Spain's time zone, on 3 October, (...) when a P-3 Orion reported that the *Alakrana* was sailing without its skiff and that the latter, with two passengers on board, had set a different course. This was conveyed to the operational command, who, under strict observance of *Atalanta*'s action protocol, decided to capture the skiff. The mission of capturing the skiff was assigned to the frigate *Canarias*...The *Alakrana* reached the port of Haradere around five a.m. on 4 October and anchored a mile and a half away from the coast (...)

Let us draw our attention back to the capture of the skiff, on which I will linger. At 15:30 hours, the *Canarias* was 125 miles away from the skiff for which it was heading at full speed. At 16:10 hours, the operational command centre ordered that the skiff was stopped. Thus, the helicopter of the frigate *Canarias* took off and reached the skiff at 17:20 hours, at which it fired a warning shot, forcing it to come to a halt. At 21:15 hours, the frigate *Canarias*, having approached the skiff, sent two pneumatic boats with marines on board, who proceeded to arrest the pirates, one of whom was slightly injured. At 21:35, having confirmed that all articles and material seized belonged to and came

from the *Alakrana*, the arrest took place. The skiff was sunk, pursuant to the Law of the Sea, which prohibits that any obstacles to navigation be left adrift. The Government was informed that the skiff had been intercepted and that two persons had been arrested under the well-founded suspicion that they had been directly involved in the hijacking of the *Alakrana*. *Canarias'* commander drew up the report required under Article 496 of the Spanish Rules of Criminal Proceedings. In the meantime, in Madrid, I personally asked the Minister of Justice to take the necessary steps to inform Spanish courts about the events I have just described, to determine both the jurisdiction and the procedure to be followed. After having consulted the Spanish State Legal Service, the Minister told me that he was to inform Spanish judicial authorities forthwith. This task was undertaken by Spain's legal representative, who just a few hours later – specifically at 2:20 a.m. on 4 [October] – brought criminal proceedings before the [Spanish] National High Court competent in the matter. The same morning, an hour later, Examining Magistrate in Central Examining Court No. 1 gave an order on the Court's competence in the matter. Specifically, the judge held – and I quote – that competence falls to the Spanish jurisdiction, more in particular to the Criminal Chamber in this Spanish High Court and to Central Examining Courts, under the Spanish Organic Law on the Judiciary. From the Indian Ocean, the very same morning, the officer in charge of *Canarias'* operational command, in compliance with the magistrate's order, reported the circumstances of the arrest of the two alleged pirates and their alleged identities to the court, and brought them to justice. The next day, on 5 October, Examining Magistrate in Central Examining Court No. 1 gave a new order to reaffirm its competence and decreed the unconditional imprisonment of the two detainees and their urgent transfer to Spain. Jurisdiction was ratified again on 2 November by the plenary of judges in the Criminal Chamber of said National High Court. In compliance with the Magistrate's order, and since the frigate *Canarias* was to take up its original mission, it was decided to transfer the two prisoners to the oil tanker *La Somme*, *Atalanta's* auxiliary ship, which had arrived to refuel the frigate and was to set course for the military base in Djibouti. On 7 October, the alleged pirates arrested, under the custody of a *Canarias'* officer and three marines, were embarked on the oil tanker, which reached Djibouti on 11 October. There, after the prisoner injured had received hospital care, they were boarded on a Spanish Air Force aircraft for Madrid, where they arrived on 12 October. The prisoner injured was hospitalised and the other was imprisoned, both awaiting trial as required by law. The judge took their statements and ratified their unconditional imprisonment within the following twenty-four hours. As you all may know, they have already been indicted and have been awaiting trial since it was determined that both were adults.

(...) The State's Legal Service, the Prosecution of the National High Court, the two central examining magistrates who had intervened and the plenary of judges of the Criminal Chamber of the National High Court have all agreed with the Government that Spain is the competent jurisdiction to try the two prisoners. In this respect,...there do not exist legal doubts of any kind.

(...) Back to my account of the events, the *Alakrana* remained hijacked near the Somali port of Haradere. By then, the operative command of the Spanish Defence Staff had reinforced the contingent on the *Canarias* in case a military intervention was necessary to free the hijacked crew. The *Canarias*, along with a P-3 Orion aircraft, kept the contact by monitoring the movements of the fishing vessel (...).

Days went by, and when the arrested pirates arrived in Madrid, on 12 October, the *Alakrana* had already been hijacked for ten days. During that lapse of time, in addition to the military and judicial operations, the Spanish intelligence and diplomatic services devoted every effort in their respective spheres to securing the liberation of the 36 sailors. Minister Moratinos started foreign service's activities at the highest levels. He remained in permanent contact with allied countries, particularly with those involved in Operation *Atalanta*, but also with other countries operating in the area, such as the United States. He was also in constant contact with the Governments of nearby countries, especially with the Seychelles', which were undoubtedly able and willing to cooperate – as they actually did – in the liberation task. Furthermore, the Presidency of the European Council was kept informed about the situation permanently. The Spanish Ambassador in Kenya was in contact, virtually on a daily basis, with the Somali authorities and the countries of origin of those hijacked crew members who were not Spanish. At the same time, the work of the intelligence services was crucial from the outset, and particularly at this time. At this point, for reasons of security which I know you will understand, I can only tell you that during those days a multiplicity of negotiations, contacts and initiatives were conducted at all levels. However, I would like to highlight the role of the members of the intelligence, foreign, and security services, of the Armed Forces and the intelligence services of other Governments, who worked extremely hard from the outset to secure the liberation of the *Alakrana*. Due to my responsibility and to reasons of security and cooperation with the intelligence services in other countries, I am unable to convey details other than these. Should the House agree, further information shall be provided during the Official Secrets Committee Meeting.

(...) Three days after the hijacking, when the crew members and their families were understandably beginning to lose heart, the pirates restricted communications and intensified their strategy of pressure, terror and blackmail. The tension reached a peak on 5 November, when they forced the skipper of the *Alakrana* and other sailors to call their families and tell them that three of the hijacked crew members had been taken off the vessel (...). The Government was aware of the whereabouts of the crew at all times, and at every stage its actions and words pursued a twofold objective: firstly to assure that all 36 crew members were safe and unharmed, and secondly to be able to secure their release.

(...) We were sure that the hijacking could be resolved soon and that the liberation would not be long in coming (...) And indeed, seven days later, at 14:05 on 17 November, the operation to liberate the *Alakrana* reached a successful conclusion and the families were immediately informed. A few minutes later the news was confirmed by the Prime Minister, who then announced it to

the media. You all know the military details of the operation since they were divulged by the Ministry of Defence and the Chief of the Defence General Staff (...). I would like to say that the entire operation, and all other actions taken from the very moment when the hijacking was confirmed, were conducted with only one principal end in view, namely, that the *Alakrana* was liberated without putting the lives of its crew members at risk at any time.

(...) There can be no doubt that the reinforcement of the democratic institutions in Somalia and the support of the legitimacy of the effective control by the Transitional Federal Government over its territory will help combat piracy more effectively in a decisive manner. This is something on which the international community has been working and to which Spain wishes to give special priority..., but Operation Atalanta itself can help achieve this objective with more immediate results, both for Somalia and for the effectiveness of the fight against piracy. Operation Atalanta is undoubtedly proving effective, but we believe it could be even more and we have concrete proposals to achieve that; proposals that were presented by our Defence Minister only a few days ago at the GAERC. Firstly, we believe that Atalanta's mandate should include more surveillance and control of the ports from which pirates sail and the interception of their mother ships, for if we hit criminals at their bases and deprive them of supplies, this will undoubtedly be of crucial help in preventing attacks. To that end, as well as using the resources with which the operation is equipped, we need to back up and reinforce Somalia's own security resources: at sea by assisting the Somali coastguards by training their crews and enhancing their operational capacity; but not only at sea, also on land, by helping the transitional Government establish a really effective security system in the country. For that purpose, we have proposed that Europe's security policy includes a Mission to train two thousand soldiers for the Somali army.

These are proposals that the Spanish Government wishes to reinforce and expand with other initiatives in the context of the international community. Therefore, during our European Presidency we shall be proposing an international conference on Somalia under the auspices of the United Nations to address the real situation in that country from a comprehensive point of view, with three basic objectives: first, on the political side, to strengthen the Somali State and its democratic institutions, supporting the new transitional Government to help it achieve real and effective control of the country. Secondly, to improve security. They need to be provided with the means to achieve security in the country, through various measures: support for the African Union's Mission in Somalia, with effective measures to combat the militias that operate there and organised crime; training and funding for the Somali security forces. Third, to promote development and tackle the serious humanitarian crisis suffered by Somalia; setting up an effective mechanism for the payment of contributions promised at the Donors' Conference last May and to coordinate the action of all the agencies and organisations involved in the cooperation with Somalia. In addition, on the international front we shall support the creation of an international criminal court to judge piracy offences, a proposal supported by the Netherlands, Germany and

Russia; we also support an international definition for piracy offences in the context of the proposal for a European Union framework decision on trafficking in human beings, which should not be approved during the Swedish Presidency shall be approved during the Spanish Presidency.

On the domestic front...we have seen the measures taken in the last few days; Spanish vessels are now fishing in the Indian Ocean with private security operatives on board. Furthermore, the definition of piracy offences is included in the motion for a reform of the Spanish Criminal Code recently submitted by this Government before this House to undergo passage. Moreover, I must also say that, on the basis of the experience gained in both cases, *Playa de Bakio* and *Alakrana*, we are in a position to activate a protocol for crisis management in cases of this kind. Numerous institutions, people and territories are affected by crises of this kind, which affect practically the whole country. This new protocol, which will assuredly serve to institutionalise and preserve practices that have proven effective, both in terms of administration, which remains the province of the Government; and, most importantly, in terms of information and communication between institutions and the entities and persons involved in the incident. The Government has already a draft protocol, which we shall submit to the various parliamentary groups for their consideration in the next few days.

(...) It is true that the Government opposes putting Army personnel on board fishing vessels, but there are good reasons for this. This has not only been a subject of debate here but throughout the international community, and only one country has decided to put soldiers on their vessels. It is not simply a matter of us not being right; there are reasons, and the subject is far more complicated than all that. We are also aware that there are particular circumstances in the French exception. Really – and I repeat – this is not a matter that affects only Spain; the debate has arisen in Germany, in the Netherlands and in the United States, and neither the Netherlands nor Germany nor the United States have taken such a decision. This is no mere coincidence, and so there must be good reasons. It is not arbitrary or unforeseen. The fact is that we have promoted and we have adopted measures to progressively enhance security, the fleet now has private security on board and we had already begun to discuss it and had actually taken the first steps before the *Alakrana*'s hijacking; for you will recall the conversation that took place between the Secretary of State for Defence and the Fisheries Minister for the Basque Country Region, where it was agreed to examine the possibility of including aids so that vessels could carry private security guards with long-barrelled weapons. The decree is there; we promoted the decree, we drew it up, and it is now in place.

(...).

(...) There has been much debate about the pirates who were arrested and brought to Spain; a mistake, a hasty decision...we have heard all kinds of things. As to the controversy over the arrest – which I believe is artificial, by the way – whether the pirates should or should not have been arrested, I honestly believe it is a question that cannot be addressed in legal terms. It is

not a question of opportunity, it is a question of legality – of the national and international legality of Atalanta and the people working in it, in that Mission. Preventing acts of piracy, preventing people from flagrantly attacking Spanish citizens at high seas is not a matter of opportunity. Spain lives under the rule of law, it obeys the law and so do its Armed Forces, indeed. It is not only the Convention on the Law of the Sea, but the terms of the Atalanta Mission's mandate, which clearly stipulate that arrests shall take place, especially in the event of flagrant crimes committed at sea against citizens, in the case of Spain. So it had to be done (...).

(...) The decisions, the capacity to decide lawfully and to decide the law – that is, the jurisdiction – falls to the courts and judges, and they have firmly ruled that jurisdiction to try the two pirates falls to Spanish courts; and, incidentally, as I said, to France as well. Doubtlessly, we would be willing to have them tried by an international criminal court”.

(DSC-P, IX Leg., No. 126, pp. 31–64).

b) Security of the Spanish Fleet

In response to two urgent questions in Congress, one tabled on 16 September 2009, regarding the Spanish tuna fishing vessels operating in the Indian Ocean, and the other on 28 October 2009, regarding the measures adopted, the Minister of Defence explained that:

“(...) Spain's contribution to Operation Atalanta since its initiation has been: four naval vessels that have now taken part in the Mission – the *Victoria*, the *Numancia*, the *Canarias* and the tanker *Marqués de la Ensenada* – registering a cumulative total of over 300 days at sea, which is almost a year; aircraft, not one but seven helicopters have been contributed, in addition to a P-3 Orion maritime patrol aircraft, which have participated in these Missions and have carried out more than 350 sorties. Spain has also contributed the *Blas de Lezo*, under NATO. Likewise, back to the work carried out by the maritime patrol aircraft, in the months after its deployment, it has maintained contact, through the AIS location system, with over 27,000 vessels in the area and has sighted more than 720 skiffs in the course of over 700 flying hours so far. Atalanta has been more than just Atalanta (...). We have succeeded in involving NATO and third countries in what is by now the largest international deployment at sea that ever undertaken by our country, aiming at the struggle against pirates in those waters (...). Spain is also carrying out specific operations to protect our tuna fleet, despite being part of Atalanta. For this reason, it has deployed resources of its own southwards in order to be as close as possible to the huge area where they operate. In addition, the COVAM, the Maritime Operation and Surveillance Centre, is working 24 hours a day from Cartagena, Spain (...).

(...) As to the shipowners' proposal to place soldiers on board their vessels, Spanish Law simply does not allow it. Our legislation differs from the French, and, moreover, we do not deem it to be the best option in neither operational nor functional terms (...). Not only does the National Defence Act prohibits

soldiers from being placed on board private civilian vessels, but the Private Security Act provides that the surveillance and protection of fishing vessels shall be one of the activities reserved to security guards, since it falls to the scope of their function of surveillance and protection of goods and property established in Article 11(1) of Private Security Act 23/1992, of 30 July 1992 (...)."

(*DSC-P*, IX Leg., No. 109, pp. 36–42).

"(...) With regard to private security and self-protection measures, last Friday the Cabinet examined a draft royal decree amending the private security regulations. We wish to allow shipowners to engage private security services from Spanish or European Union firms, which would be allowed to use military hardware suitable for the level of threat in the area. I may also say that both the Spanish Government and the Basque Regional Government have offered to cover 50 per cent of the cost of such services – 25 per cent to be covered by Spain, 25 per cent to be covered by the Basque Country, and 50 per cent to be met by shipowners. On its part, the Ministry of Defence has committed to be responsible for the transfer and logistics of all this private security and for the training of the agents where required (...).

(...) There is but one request to which we are unable to respond, as you may know, namely, the placing of military personnel on board tuna fishing vessels (...). That is not allowed by our legislation; it raises serious doubts as regards international legality, and above all, (...) the Defence General Staff tell us that it is not a viable option for operational reasons (...). That explains why, only one out of the eight countries of the EU contributing militarily to Atalanta has opted to place soldiers on board – the others use private security –; all the others have either disregarded it or directly discarded such an option. And to conclude... Why France and not the others? This is because, as you may know, France, historically, has always had a presence in the Indian Ocean; they have military bases there with over 3000 troops right next to Somalia; in other words, France has deployed close to Somalia as many soldiers as Spain has in the entire world (...).

(*DSC-P*, IX Leg., No. 117, pp. 33–39).

Lastly, on 11 November 2009, in reply to various parliamentary questions submitted before the Congress regarding European Union's Operation Atalanta in the Indian Ocean, in connection with the Exchange of Letters between Kenya and the European Union signed on 6 March 2009, on the conditions and modalities for the transfer of persons suspected of having committed acts of piracy and arrested in the course of that operation, the Government stated the following:

"...We would recall first of all that in view of the serious hazards to navigation in the Gulf of Aden caused by the political crisis in Somalia, in order to avoid risks to persons and to navigation and maritime trade in the area, the United Nations Security Council has passed various Resolutions, of which we should mention numbers 1814 of 15 May 2008, 1816 of 2 June 2008, and 1838 of 7 November 2008, which call for an international military reaction system to deal with acts of piracy at sea. Pursuant to the implementation of these Resolutions,

under Title V of the Treaty on European Union, the European Union adopted Council Joint Action 2008/851/CFSP of 10 November 2008, ‘on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast’.

There was published in the *Official Journal of the European Union* L 79 of 25 March 2009 the Exchange of Letters between the European Union and the Government of Kenya on the conditions and modalities for the transfer of persons suspected of having committed acts of piracy and detained by the European Union naval force (EUNAVFOR), and of the seized property in the possession of EUNAVFOR, from EUNAVFOR to Kenya and for their treatment after such transfer, signed at Nairobi on 6 March 2009. The Letter came into force and is to apply provisionally as from the day of its signing, as provided in the last paragraph of the Exchange of Letters.

Since this is a EU’s international treaty to which Spain is not a party in its own right, the Exchange of Letters constituting the Agreement between EU and Kenya shall not be published in the *BOE* under the current legislation, given that the Court of Justice has ruled that it contravenes the Treaties to publish norms of the Community legal system in the official journals of the Member States. By analogy, then, this shall apply, even more decidedly, to those acts adopted by the Council in the context of the CFSP, as in the case of this Agreement. Finally, it must be remembered, as already mentioned, that the Exchange of Letters constituting this Agreement was published in the Official Journal of the EU, on 25 March 2009, and such publication is tantamount to the official publication in Spain to all intents and purposes.

European Union’s protocol for Operation Atalanta requires that contact be first established with the country of the ship that executed the detention, in case the national judicial authorities should decide to act against the reputed pirates; and also with the authorities of other EU member countries that may wish to take part in the proceedings. In the event of a negative reply, the Exchange of Letters signed by the EU and Kenya for the trial of suspected pirates comes into operation”.

(*BOCG-Congreso-D*, IX Leg., No. 288, pp. 229–230).

X. ENVIRONMENT

1. Maritime Safety

On 25 November 2008, the Government reported on the progress of the action brought in the United States against the company ABS in connection with the sinking of the vessel *Prestige* in the coast of Galicia:

“In addition to a natural disaster, the sinking of the *Prestige*, on 19 November 2002, cost the Spanish State over 1 billion dollars, owing to the expense of the decontamination work and other damage caused.

In view of the scale and the cost of the disaster, among other legal actions the Spanish Government decided to lodge a claim for these expenses against the US company “American Bureau of Shipping” (ABS) in the American courts. ABS was the classification society that certified the seaworthiness of the *Prestige* and the Spanish State takes the view that it is liable for the fact that the vessel was sailing while not seaworthy.

The action is currently under appeal before the New York Court of Appeals. The Spanish State is appealing against the decision of the New York South District Court delivered on 2 January 2008 declining jurisdiction in the case on the ground that US courts are not competent to consider this complaint. That decision is not a judgment on the merits of the case.

The expenses incurred by the Spanish State amount to 25,116,739.69 dollars so far. This amount includes the fees of lawyers, assessors and experts. We should note incidentally that many of the reports and assessments made in the course of the litigation in the USA are also being used for the legal defence of the Spanish State against actions brought against it in Corcubión (A Coruña) and Rochefort (France). The Rochefort proceedings were finally closed on 15 May 2008 with a judgment wholly favourable to the Spanish State”.

(*BOCG-Congreso.D*, IX Leg., No. 133, p. 174).

2. Protection of Health

In her intervention before the Senate’s Joint Committee for the Study of Climate Change, on 3 November 2009, the Minister of Health and Social Policy, Mrs. Jiménez García-Herrera, reported on the ministry’s lines of action in relation to health and climate change and to the creation of a national climate change and health observatory:

“(...) The level of involvement of Spain and the Ministry of Health and Social Policy in the conduct of activities, at the European and international levels, to enhance our understanding of climate change is highly considerable. This has been the case ever since September 2007, after the United Nations General Assembly when [Spanish] Prime Minister, José Luis Rodríguez Zapatero, announced Spain’s commitment to make an extraordinary donation of 3 million euro for the World Health Organisation’s strategy to combat the effects of climate change on health. Thus, Spain is one of the group of countries that are cooperating most actively to promote international actions in this sphere.

(...) All these ideas have come together in the recent creation – proposed by this Committee – of the health and climate change observatory as the best instrument for analysis, diagnosis, assessment and follow-up of the impacts of climate change on public health and on the National Health System”.

(*DSCG-CM*, IX Leg., No. 84, p. 3).

XI. LEGAL ASPECTS OF INTERNATIONAL COOPERATION

1. Development Cooperation

a) General lines

In her appearance before the Congress' Committee on International Development Cooperation in March, the Secretary of State for International Cooperation, Mrs Rodríguez Ramos, reported on the 2009–2012 Master Plan for Spanish Cooperation that:

“(…)

This Master Plan will finally devote 0.7 per cent of the gross domestic income to official development assistance but, first, we shall reach 0.56 in year 2010 as we have set, in order to meet our commitment with the European Union (...). What this Master Plan seeks to do is to adapt the Paris Declaration, the Accra Agenda for Action and the European Union Code of Conduct – all documents of international consensus in which the Spanish State has played an active part – to our own framework, to our own action and to our own administration of development cooperation policies.

(...)

This new master plan raises the need to draw up a new cooperation act, whose process we propose to set in motion in the second semester of 2009. Nobody doubts..., the quality and the degree of consensus with which the 1998 Act was passed, or that the act made possible the huge steps forward our cooperation has made since then, but there is a strong consensus that the present circumstances of development cooperation policy are very different from the ones prevailing ten years ago and therefore we need to update our legislative framework if we wish to meet these challenges with any assurance of success. In this endeavour, in the drafting of a new legislative framework, we shall be making every effort to advance and pass an act with the same degree of consensus as the 1998 Act.

(...)

Another of the improvements that we have sought to introduce (...) has been to bring greater clarity to those aspects of the plan that may be hard to understand. For instance, the wording of some chapters has been improved, such as the bases for a common policy. Chapters such as the one on development education have been shortened. An effort has been made to clarify and abbreviate the explanation of the seven strategic areas and their relevance to the effectiveness of development policy. Definitions of ‘strategic area’ and ‘action plan’ have been incorporated, and the definition of some instruments has been improved (...). The master plan needs only be moderately concrete, for there are other instruments to define the detail of the development policy, such as the annual international cooperation plans to which the Cooperation Act assigns the

function of annually developing the targets, priorities and functions laid down in the master plan, the action plans I just mentioned, which define the present master plan, or the operational programming of the various actors.

(...)

I would like to make clear that the Spanish Government firmly supports the agenda of transparency, accountability and improved governance of natural resources that the EITI is promoting in many countries. The support offered by Spain to this initiative for transparency in enterprises engaging in the extraction of natural resources in developing countries is clear from the fact that for the last few years we have been the second largest contributor to the multi-donor trust fund managed by the World Bank. Likewise, in 2010 we shall have representatives in the administration board, and in 2011, thanks to our work, drive and contribution, we shall become a full member of the administration board of the initiative.

(...) The 2009–2012 master plan lays down clear guidelines to improve and elaborate, even more, our multilateral development assistance strategy. This is a strategy that awards the first priority to improving the selectivity and concentration of multilateral assistance, and that will undoubtedly mean limiting funds for items originally included in Spanish cooperation's various annual priority action plans. We shall therefore be seeking to achieve more strategic and more predictable assistance. This implies consolidating the voluntary contributions and engaging in multi-annual planning with the principal multilateral organisations with which Spain mainly works.

(...)

The plan envisages the consolidation and deepening of some of the reforms already initiated in the previous cycle, such as the reform of the AECID [Spanish International Development Cooperation Agency], which is complete but still needs to be set in motion at the present time. And it is precisely this year, 2009, that the new AECID will start to function as such, with the approval last February of the agency's first management contract.

(...)

As to sectoral and horizontal priorities, there have been various changes, such as considering the CAP as a strategic sector, the review and improvement of the incorporation of a gender-based development approach in cooperation interventions, or the integration of the environment as a variable in all interventions at the planning stage, from the most strategic context to the specific action (...). The final version of the plan specifies that under no circumstances can respect for and recognition of cultural diversity, and likewise support for public policies that explicitly acknowledge cultural differences justify cultural practices that clash with human rights or fundamental freedoms.

(...) Regarding health, in response to the concern about the excessive fragmentation of multilateral assistance in the health area, the cooperation master plan identifies three major United Nations agencies where Spain will concentrate its multilateral efforts in health matters, namely, the WHO – with its regional office –, the UNFPA, and UNAIDS, in three large multi-donor funds – Worldfund, the

Alliance for Vaccines and UNITAID, where our efforts are focused essentially on securing the vaccines necessary to treat AIDS, tuberculosis and malaria.

Another aspect discussed was the section on migration and development (...). The global approach adopted by the European migratory policy (...) may be summarised in three mutually complementary lines of action: promoting legal migration, combating illegal immigration and fostering synergies between migration and development. The Master Plan places development cooperation action clearly within this quest for synergies, this effort to promote the positive reciprocal effects between migration and development, by achieving a more comprehensive unbiased understanding of these impacts through the production of studies and eventually the compilation of good practice guides to reduce the negative impacts of this process – where these arise.

(...)

Finally, on geographical priorities, the Master Plan has made (...) a major effort at concentration, reducing the number of priority partner countries for Spanish cooperation from 56 to 50 and making a commitment to concentrate two-thirds of the geographically-specified assistance in the 23 countries under category A and 85 per cent of the effort of concentration of that assistance in countries under categories A and B. This effort of concentration (...) is consistent with the international principles of the Aid Effectiveness Agenda, of responsible division of labour among donors, and undoubtedly also with the recommendations made to us by the DAC in its 2007 review (...). Regarding geographical priorities, I would like, once again, to stress that for the first time in the history of Spanish development cooperation, fourteen out of the thirty least developed countries (LDC) are priority countries for the Spanish cooperation (...). As an exception to the plan's geographical criteria, those sectors that have built up experience through the funding of NGOs in regions or sectors not prioritised in the master plan will be able to carry on funding those sectoral priorities identified in the 2009–2012 Master Plan”.

(*DSC-C*, IX Leg., No. 227, pp. 2–7).

In her intervention before the Congress' Committee on International Development Cooperation, on 9 June, the Secretary of State for International Cooperation, Mrs Rodríguez Ramos, presented the 2009 Annual International Cooperation Plan, as to which she reported that:

“(...)

Let me first say that we have striven to make this 2009 Annual Plan a realistic one, in light of the international situation, the crisis I referred to at the beginning of my speech, and the challenges that we will have to face this year. We should bear in mind that now in 2009 we are working to prepare the Spanish Presidency of the European Union, which as you know covers the first semester of 2010. It is our wish that under the Spanish Presidency, EU's development policies shall have a prominent place in the debate and in the context of European Union external policy and action. We need to wonder how the European Union can help to reinforce development policies as a major instrument of the

European Union's external action. In that respect the Government shall defend, among other issues, the need to incorporate a development-oriented approach in the design of the new international financial architecture with which it is hoped to weather the crisis. We shall also be seeking to look more closely at other issues such as our commitments under the international aid effectiveness agenda, the practical application of the European consensus on the development and strengthening of the commitments acquired in Monterrey and Doha in 2008.

(...)

Regarding the volume of assistance stipulated in the PACI 2009 [Spanish Annual International Cooperation Plan], the proportion of gross domestic income to be devoted to official development assistance has been set at 0.5 per cent. We are fully seized of the European target, which has been set at 0.56 per cent in 2010. In setting this percentage we are very conscious of the distance we have yet to travel to reach 0.7 per cent of GDP in 2012. Our official development assistance has risen from 1,985 million euro in 2004 to 4,635 million in 2008. We have doubled our assistance in that time. We have moved from below the DAC average to 13 percentage points above, and in one of its latest communications to the Council, the European Commission acknowledged our leading role in increasing European Union's official development assistance.

(...)

The annual plan, the PACI, envisages the drafting of a plan of action for aid effectiveness, in line with what some of our partners in the European Union are already doing, and the preparation of a methodology for the definition of country association frameworks. These are the instruments that will gradually replace the country strategy documents and will make it possible to reinforce the principle of appropriation by the partner country with which we are working and the predictability of the cooperation resources available to that country. In addition, in 2009 we wish to complete the preparation of the general outlines of the management system for development results that we proposed to introduce in 2010. The annual plan will also furnish a number of specific guidelines for the development of the master plan, which are closely related to the pursuit of aid quality and effectiveness, such as criteria for achieving greater sectoral concentration, in line with the European Union's code of conduct, on complementarity and division of labour, and with the overarching assumption that concentration must be addressed as a gradual process, led by the partner country and in coordination with all the other donors.

The other strategic sector that we have decided to prioritise is multilateral action (...). In the course of this year we propose to conclude preferential association agreements with the four United Nations bodies with which we are working most closely: UNIFEM, UNFPA, UNDP and UNICEF. These preferential association agreements will provide a strategic framework for association with these agencies and multilateral organisations and will help us to gain a global perspective and to channel and facilitate the relations of various Autonomous Communities with those organisations (...). We want to work with these international organisations as we are already doing with the UNDP – with which we signed on to a plan

of action for 2009–2011 – which among other commitments includes an increase of 15–20 per cent of the number of Spaniards working in that organisation, the establishment of a rate of retention of young Spanish associate experts and support for internal promotion, and also the Spanish Government's special interest in the upper intermediate levels of the organisation (...). We also propose that senior officials of the four international organisations with which we shall be concluding these preferential association agreements appear before the Spanish Parliament to debate aspects of the Spanish cooperation policy with the international organisations, the preferential agreement and the association framework that we shall be building.

The main objectives in this area are effectiveness, transparency and strategic coherence of our multilateral action with the master plan (...). We shall continue to work hard on reforming the United Nations development system, an area where Spain, along with other countries, is one of the leaders. Spain has made a major contribution with the start-up of an innovative initiative: 'Una sola ONU' [An Only UN] window, in an effort to put principles of system coherence into practice (...).

Among these strategic areas on which we are working this year, I would like to highlight policy coherence, with the Cooperation Council report focusing on the financial crisis and the designation of focal points in each ministry regarding policy coherence, as specifically envisaged in the master plan.

(...)

Finally, I would like to highlight the effort we have made to achieve clear progress towards results-based assessment, the chief objective of the approach to the priority plans in the field of aid effectiveness and multilateral action which we presented in the annual plan... As part of this effort I would like to highlight that next Autumn we shall voluntarily submit to an intermediate peer examination by the DAC (...). What we seek by submitting to this examination is to achieve a clear improvement in our way of working, with the emphasis on effectiveness, transparency and achievement of effective results (...).

(DSC-C, IX Leg., No. 296, pp. 3–6).

In her appearance before the Senate's Committee on International Development Cooperation, the Secretary of State for International Cooperation, Mrs Rodríguez Ramos, replied to a question regarding the follow-up mechanisms provided for the Official Development Assistance funds allocated to multilateral organisations:

"The gross development assistance allocated to multilateral organisations in 2008 amounted to 2,802 million euro, which is a 23.7% increase, exactly 537 million euro more than the ODA allocated to multilateral organisations in 2007. In 2008 the proportion of total official assistance channelled through multilateral organisations was 56.67%, very similar to the figure of 57.67% in 2007.

In answer to the question of what organisations received that multilateral assistance, I must say that the organisations belonging to the United Nations system received around 910 million euro of ODA, which is 32.5% of the total approximately. Among the various United Nations agencies and programmes, I

must mention the UNDP, which received more than a third of the total, around 332 million euro, followed by UNICEF with 90.5 million euro, the World Food Programme with 84.2 million euro, UNIFEM with 74.1 million euro, the FAO with 46.6 million euro, UNFPA with 36.7 million euro, and the Central Emergency Response Fund with 30 million euro.

On its part, the European Union received 26.6% of these resources, which is 744 million euro, allocated largely to the Community development budget and the European Development Fund. Regional development banks received 16.5% of the official development assistance, channelled through multilateral organisations (463 million euro). Among the contributions made to these organisations I must highlight the sum of 300 million euro paid to the Spanish Cooperation Fund for Water and Sanitation in Latin America and the Caribbean.

The remaining official development assistance was spread among the World Bank – 321 million euro (11.5%) – and other organisations, including the Global Fund to Fight AIDS, Tuberculosis and Malaria, which I mentioned earlier, the Education for All-Fast Track Initiative and the World Alliance for Vaccines and Immunisation.

Finally, regarding distribution by ODA agents into multilateral organisations, the Minister of Foreign Affairs and Cooperation channelled 56.9% of such aid, largely through *FAD-Cooperación* [Spanish fund to combat drug addiction], which received 1,369 million euro of ODA in 2008, followed by the Ministry of Economy and Finance which channelled 41.5%, a total of 1,164.2 million euro, out of which 721 million were the contribution to the European Union, which is always made through the Ministry of Economy and Finance”.

(DSS-C, IX Leg., No. 209, pp. 21–22).

In her appearance before the Senate’s Committee on International Development Cooperation, the Secretary of State for International Cooperation, Mrs Rodríguez Ramos, explained how the Spain-UNDP bilateral Fund managed to achieve the Millennium Development Goals:

“(..)

Among all United Nation organisations, the UNDP is the one that received the largest general contribution in 2008, amounting to 42 million euro (...). In this sense, I would like to highlight that the two transversal axes of Spanish development cooperation policy are embedded in the Spain-UNDP Fund – the support for a concerted effort by the entire international community to achieve the goals that we have set to be attained by 2015 through the development agenda, and the support for the United Nations reform process; both (achievement of the MDG and the reform process) are priority objectives in the Spanish cooperation policy (...).

Starting this year (2009) with the implementation of the Spain-UNDP Fund’s monitoring and evaluation plan for the MDG, we shall be carrying out major assessments of the results of this fund in each of the countries where it is operating (...). In this case I would like to say that at the Spain-UNDP Fund we plan to carry out 120 final assessments of the joint programmes (...).

As regards the functioning of the fund, let me say that it operates through two windows: one, called the One UN window, which provides contributions to the UN system's cohesion fund; this operates in eight selected pilot countries. These eight countries in which we work through the One UN window are Albania, Cape Verde, Mozambique, Pakistan, Rwanda, Tanzania, Uruguay and Vietnam. The second instrument that we work with in this fund is what are known as thematic windows, which are intended to support United Nations reform by promoting more coordination, collaboration and work sharing among agencies through the financing of projects in eight sectors that must be clearly identified with the eight Millennium Development Goals, which are the fundamental target of the fund.

In the case of the first of the structures through which the fund operates – the One UN window – we seek together to promote reform in the way the United Nations acts, to improve the coordination, alignment and effectiveness of the aids managed by the United Nations agencies working on the ground (...).

As I said, there are eight thematic windows. Each one has a clear link to the achievement of the Millennium Goals. The first is gender equality and autonomy for women; the second is the environment and climate changes; the third is culture and development; the fourth is economic and democratic governance; the fifth is youth, employment and migration; the sixth is building peace; the seventh is infancy, food security and nutrition; and the eighth is the private sector and development (...).

To conclude with the information on the UNDP Fund I must say that according to the data on the impact compiled by the fund itself, it is estimated that the following numbers of people will benefit from each of these windows – the UNDP estimates that implementation of gender and development will indirectly benefit 2,791,000 people; environment and climate change, 1,887,524 people; culture and development 1,500,000 people; economic governance, 1,800,000 people; and youth, employment, migration and peace, 1,400,000 people. As the other windows had been closed at a subsequent stage, the UNDP has not compiled estimates on impact yet.

(...)"

(DSC-C, IX Leg., No. 218, pp. 5–7).

b) Alliance of Civilisations

In response to a parliamentary question on the public resources devoted to the 'Alliance of Civilisations' as from April 2004, the Government stated that:

"(...)

The Ministry of Foreign Affairs and Cooperation has made a number of voluntary contributions to the Alliance of Civilisations totalling 380,000 euro; that is the amount that the Ministry of Foreign Affairs has contributed to the Alliance of Civilisations since 2004. A further sum of 650,000 euro has been proposed and approved, possibly as a contribution to the United Nations Trust Fund for the Alliance of Civilisations. The continuity of the project does not

depend on these contributions alone, but also on the contributions by other countries and other contributors to that United Nations Trust Fund for the alliance project (...).

And lastly, the Alliance of Civilisations received fresh impetus during the Ministerial Week in New York. There, the group of friendly countries supported its overall strategy and the development of regional strategies in South-East Europe. Brazil, (...) will be organising the third Assembly of Civilisations Forum in Rio de Janeiro in May 2010, following on from the forums held in Madrid and Istanbul”.

(DSS-C, IX Leg., No. 219, p. 25).

2. Assistance to Developing Countries

Note: See XI.1.a) General lines

a) Latin America

In his appearance before the Senate’s Committee on Ibero-American Affairs, on 5 May, the Secretary of State for Ibero-America, Mr. de Laiglesia y González de Peredo, presented the broad guidelines for action in the region:

“(...

Obviously we need to consider the current state of uncertainty and change when moulding the relations between Spain and Ibero-America, a region of primordial importance in our external relations, but we shall not be diverted from our goal of continued progress towards greater integration and enhancement of our role as interlocutor with all the countries in the region, both bilaterally and multilaterally (...). Therefore, when presenting the priorities for our external relations at the beginning of this legislature, the Minister of Foreign Affairs and Cooperation placed special emphasis on Ibero-America, thus highlighting its importance for our external policy. Among the challenges facing the region he underlined, among others, the strengthening of relations between the European Union and Latin America and the Caribbean, the consolidation of the Ibero-American Community of Nations, the support for regional and sub-regional integration processes, and the involvement in the celebrations for the bicentenary to commemorate the independence of our sister republics as an opportunity to infuse new life into political, social, economic, cultural and scientific relations in Ibero-America. For time reasons, two of these challenges need to be addressed as priorities, namely, the commemoration of the bicentenaries of the Ibero-American republics – the celebrations commence this year – and the preparation of the Spanish Presidency of the European Union in the first half of next year.

As I said, the commemorations of the bicentenaries of the independence of the Ibero-American republics commence this year, with the celebration of the *Grito de Sucre* [Sucre’s Cry] on 25 May, La Paz’ on 16 July and Quito’s on 10 August; and more will follow over a fairly lengthy period of time, through-

out the best part of this century, although the core group will come between now and 2026.

Spain is preparing to contribute to these commemorations, accompanying the celebrations of the Ibero-American republics – which will naturally take the lead – in whatever way they decide and ever-attentive to any sensibilities that may surface (...). This is an opportunity to come together to discuss and plan initiatives to meet the challenges which in a globalising world bear on the conformation of their political systems and their societies, their individual and collective aspirations for democratic governance, public safety, economic well-being, social cohesion, full enjoyment of civil rights and recognition of ethnic and cultural plurality, to which the process of national construction begun with independence was the logical response.

(...)

Spain wishes to share in the definitive consolidation of constitutional governance and democracy in the nations on the other side of the Atlantic, and to help intensify the progressive construction of the Ibero-American community. To that end we have developed an institutional framework designed to last, whose key components are the National Commission for Commemoration of the Bicentenaries of the Ibero-American Republics and the Ambassador Extraordinary and Plenipotentiary, whose task is to define our participation as companions in the commemorations, the strategic backbone of which will be action in the areas of education, innovation and development (...).

In the first half of 2010, Spain will once again assume the Presidency of the European Union. The Prime Minister has indicated that Latin America will occupy a central place in our Presidency, underlining both our special empathy with the region and the processes of regional integration.

Spain looks on regional integration as an essential means of promoting development and social cohesion. As I said earlier, in Latin America at this time there are various coexisting integration processes in progress, which occasionally overlap. However, I believe that far from posing a risk to the region, the interaction among the different visions of Latin American integration should be seen as an opportunity to define more exactly the scope and goals of the current processes... In that respect, the strengthening of relations between Ibero-America and the European Union is one of the cornerstones of our foreign policy (...).

With that in mind we should be paid to the 6th EU-Latin America and the Caribbean Summit – to be held in Spain, probably in May next year – into one of the main events of our Presidency, when we hope to implement the appreciable qualitative change that Spain seeks to bring to our bi-regional relations. To that end we need to be able to organise an attractive, effective and meaningful summit (we intend to propose that the meeting be centred around a key issue for both regions: innovation, technology, social inclusion and sustainable development), building on the experience of previous summits but making it more attractive and effective (...).

I estimate that special attention will have to be paid to the negotiation processes for the Partnership Agreement with Central America and the Multi-Party

Trade Agreement with those member countries of the Andean Community of Nations that are willing, which we hope to see signed during our Presidency. And of course Spain is also willing to offer all its political support for the reactivation of European Union-Mercosur negotiations (...).

(...)

The Spanish Cooperation Master Plan 2004–2008 guaranteed that at least 40 per cent of our official development assistance would go to Latin America, and in that period, thanks to a spectacular increase in our official development assistance, which practically doubled between 2004 and 2007, in 2007 Spain equalled the United States as the first donor to the region and in 2008 Latin American was the principal recipient of Spain's gross ODA world-wide, with a total of almost 1,500 million euro.

Within this south-south and triangular cooperation framework, in which other countries in the region such as Brazil, Mexico or Chile for example, have participated, Spain has also promoted the idea of working with them rather than for them in order to encourage the Ibero-Americans themselves to take a more active part in the region's development (...).

(...) Spain's commitment to the region is manifest not only in the form of an intimate dialogue with each country, but also in the promotion of cross-border integration and cooperation and support for the Ibero-American conference process. This is another of our foreign policy priorities – the consolidation of the Ibero-American area and the strengthening of the Ibero-American community of nations, to which end we work with the concertation mechanism embodied by the Ibero-American summits, the eighteenth of which was held in El Salvador last October.

(...) In conclusion, it is evident that Ibero-America has a fundamental place in our foreign policy. Thanks to the growing interrelation between Spain and Ibero-America, there is now more mutual understanding and trust between countries, for we see ourselves not only as partners but also as sister countries. All this has had a decisive impact on Spain's image in the region, which as the Honourable Members know, is a highly positive one. According to the latest surveys published, 71% of the Latin American population has a good opinion of Spain. 72% feel proud of the Hispanic culture and language, and 61% take a positive view of Spain's influence in the history of their respective countries (...).

(DSS-C, IX Leg., No. 145, pp. 3–7).

In his appearance before the Senate's Committee on Ibero-American Affairs, on 17 November, to report on the general prospects for Ibero-American policy in 2009 and 2010, the Secretary of State for Ibero-America, Mr. de Laiglesia y González de Peredo, explained that:

“(...) Spain, along with Portugal and Brazil, has been active in drawing up a proposal to create a new programme to promote innovation in the Ibero-American Area for Knowledge and complete the existing range of Ibero-American cooperation programmes already under way. The idea is to organise the Ibero-American Area for Knowledge around three broad axes.

Firstly, there is the CYTED Programme, already existing and due for updating, aimed at structuring a competitive range of knowledge, promoting the development of scientific resources by enhancing its existing networks, its coordination actions and the research projects led by research institutions, universities and other public centres.

The second axis, the new Programme “Iberoamerica Innova”, which is centred on both public and private enterprises, will promote innovation in processes, products and practices by means of inter-company cooperation structures so as to take advantage of major existing synergisms by promoting technological alliances in the region. We believe a programme focusing specifically on business-oriented technological innovation is essential to mobilise the region’s productive capacities and provide the agents of enterprise with lines of policy action to support and strengthen their investment in R&D&I (...).

In short, the Ibero-American Area for Knowledge seeks to efficiently integrate those three basic pillars of the knowledge society: education, science and innovation. And the new Iberoamerica Innova programme fills a gap that had persisted hitherto (...).

Therefore, the forthcoming Ibero-American Summit in Estoril is an excellent opportunity to open up a new chapter in Ibero-American cooperation, aimed at bringing modernity to the region by means of a programme that represents a concerted investment in business research and development, closely bound up with scientific research and the means of transfer between the two (...). As regards funding, we do not have a final estimate for the total cost of the programme yet, but we believe Spain can commit to a million euro a year for financing during 2010–2012. For the moment the project enjoys the support and encouragement of Spain, Brazil and Portugal and hence it is sure to be approved as an initiative, but we are still working to secure more accessions and commitments within the framework of the summit and have it finally approved as an Ibero-American programme, which according to the current regulations requires a minimum of 7 countries to be considered a programme (...).

Along with its declaration, the summit will approve an action programme in which other subjects of importance will also be addressed in addition to this initiative – and hopefully programme. Among these I would like to mention three. The first is the Alliance of Civilisations. As part of the action programme of the Ibero-American community, the summit will be inviting those Ibero-American countries that have not done so yet to join the Group of Friends, and it will be asking the Ibero-American Secretary-General to begin devising an Ibero-American strategy for intercultural dialogue to help in the preparation of the Third World Forum of the Alliance of Civilisations, to be held in Brazil in May next year.

The second subject that the action programme will be highlighting is gender and equality. The Conference will be asking the SEGIB [Ibero-American General Secretariat] to organise the Third Ibero-American Forum on Gender, which will include a firm condemnation of violence against women (...).

The third subject dealt with by the action programme will be migrations, taking up the discussions on migrations and development that went on in the

Montevideo Summit. The second meeting of the Ibero-American Forum on Immigration and Development will be held in El Salvador and will be included in the action programme. Also, the SEGIB will be mandated to undertake a study on the possibility of starting up the Ibero-American programme on industrial property that I referred to, which is an integral part of the decisions in connection with the central topic of the summit.

(...)"

(DSS-C, IX Leg., No. 242, pp. 3–4).

b) Maghreb

Note: See XI.2.c) Africa

In his intervention before the Senate's Committee on Foreign Affairs, on 23 April, the Minister of Foreign Affairs, Mr. Moratinos Cuyaubé, reported on the balance and prospects of Spanish foreign policy:

"(...)

The meeting held in Córdoba last Monday and Tuesday within the framework of the 5+5 Dialogue in the Western Mediterranean is a token of Spain's interest and leadership in promoting diplomatic initiatives in the Mediterranean area and the Maghreb in particular. The prime objective in the Maghreb is to promote and strengthen bilateral relations. I wish to highlight the importance that we attach to our strategic partnerships with Morocco and Algeria, the two principal countries in the region in terms of size and international influence.

The second objective is to encourage regional integration in the Maghreb. The construction of a sphere of real and effective cooperation in the Maghreb is a priority for Spain and ought to be so for the entire European Union and for our Maghrebi partners. For all these reasons, the Maghreb will be one of the priority issues of the Spanish Presidency of the European Union in 2010. Be it remembered that Spain has been the prime mover in the European Union behind the achievement of advanced status for Morocco as a means to consolidating and definitively tying down Morocco's commitment to the process of reforms and internal modernisation through a strategic alliance with Europe. Spain needs to encourage or monitor the processes of enhancement of bilateral relations between the European Union and the five countries of the Maghreb: namely Algeria, Libya, Morocco, Mauritania and Tunisia. In that respect, the question of the Western Sahara remains one of capital importance. On this issue I recently made a monographic appearance before the Congress of Deputies, where I stressed the need for us to prioritise the process of negotiation sponsored by the United Nations on the basis of Resolution 1754, and the achievement of a fair, lasting and mutually acceptable solution that respects the principle of self-determination.

In the Mediterranean sphere, at the Summit of Heads of State and Government of the Mediterranean in July 2008, we inaugurated the Union for the Mediterranean, an initiative within the framework of the Barcelona Process,

moreover embodying a novel institutional dimension and promoting cooperation in the six priority areas – environment and decontamination, small and medium enterprises, civil protection, energy, seaborne transport and motorways of the sea, and education.

The Secretariat and our Presidency of the European Union both deserve separate mention. As regards the Secretariat, we consider it a major success to have achieved its location in Barcelona (...). Barcelona's central place in the Mediterranean is thereby reinforced with an institution devoted to the identification of projects and to attracting and promoting resources.

(...)"

(DSS-C, IX Leg., No. 137, pp. 3–4).

c) Africa

Note: See XI.1.a) *General Lines* and XI.3. *Immigration*

In his intervention before the Senate's Committee on Foreign Affairs, on 22 October 2009, to report on Africa Plan 2009–2012, the Secretary of State for Foreign Affairs, Mr. Lossada Torres-Quevedo, explained that:

"(...) Africa Plan 2009–2012 is flexible and dynamic, in line with the Spanish Cooperation Master Plan 2009–2012 in terms of timing and concept, and its purpose is to assure the coherence of the actions that we wish to undertake in this part of the world. At the same time it is a realistic plan that is very much attuned to the present economic context, but it nevertheless spares no effort to see that Spain's performance in Africa lives up to the expectations of our society.

(...) [O]ne of the innovative aspects of Africa Plan is that it adopts a regional approach in Sub-Saharan Africa which, combined with the bilateral dimension of our relations, includes a part of multilateral work in harness with its own organisations – with the African Union first and foremost, but also with African sub-regional organisations, the Economic Community of West African States (ECOWAS), the Southern African Development Community, the InterGovernmental Authority on Development, or the Economic Community of Central African States (...). For the first time in the history of Spanish diplomacy we have held a high-level meeting – a summit – with the ECOWAS and its fifteen Member States. On 22 June last at the ECOWAS headquarters in Abuja, Nigeria, in an initiative coordinated by Spain and in close collaboration with the countries of the sub-region, the Prime Minister of Spain met the fifteen Heads of State and Government of West Africa and the president of the ECOWAS, for the purpose of reaffirming our resolve to devote priority strategic attention to this part of Africa, on a basis of mutual trust, dialogue, respect for sovereignty and African appropriation of its economic and social development initiatives.

The Abuja Declaration, which was signed at the close of the summit, records a number of commitments that Spain has acquired covering the fields of governance and democracy, the fight against illegal trafficking, the achievement of the Millennium Development Goals, food security and increased trade relations

and investment. In this respect, Spain has accepted responsibilities as regards the support for consolidation of democratic processes, with particular emphasis on reinforcing the capabilities of the regional organisations themselves. Our country will also be promoting the development of integration projects in the fields of agriculture and food security in this region through a contribution of 240 million euro over three years to support the start-up of the ECOWAS's common agricultural policy. Spain has also undertaken to address the challenges in the field of public health in conjunction with the States of the region, particularly in the fight against malaria, within the Strategic Plan of the West African Health Organisation.

(...)

I shall use the list of goals laid down in Africa Plan to detail the advances and achievements that there have been in connection with this policy. The first of these goals is the support for democracy, peace and security. Spain has strengthened its multi-dimensional commitment to governance, particularly in fragile States like Guinea Bissau, where alongside financial support for elections in the wake of the assassination of President Joao Bernardo Vieira, we have reaffirmed our commitment to reform the security sector, by combating impunity and drug trafficking; and our commitment to the country's development. In this respect, Spain has continued to speak in the European Union in favour of the ESDP Mission for the reform of the security sector to remain in Guinea Bissau (...). At this time Spain is taking part in the International Contact Group on Guinea Conakry and is now acting as the local European Union president in that country, working intensively to seek a solution. This necessitates an investigation and apportionment of responsibility for these events and the immediate commencement of a democratic transition, which requires the members of the Board to honour the commitments they have acquired with the international community, particularly not to stand in the elections.

Another aspect of this first goal is that Spain is participating in election observation Missions organised by the European Union or at a bilateral level, like the one due to travel to Mozambique shortly (...).

The protection of human rights is a principle that inspires our entire foreign policy, and particularly our policy in Africa. Our firm commitment to abolition of death penalty, to the eradication of torture and the elimination of any kind of discrimination was symbolised in an invitation received by the Prime Minister to attend the ceremony accompanying the abolition of death penalty in the National Assembly in Togo on 23 June last.

In the sphere of peaceful settlement of disputes and within the framework of United Nations peacekeeping operations, Spain is a participant in Missions such as MONUSCO in the Democratic Republic of the Congo and UNIPSIL in Sierra Leone. However, our commitment has been especially highlighted by our support for the African Union's Peace and Security Agenda and for inherently African mechanisms (...). Much of our contribution to this African Union organisation for 2009, totalling 10 million euro out of a package of 30 million euro earmarked for this three-year period, will go to reinforcing the

Africans' own capabilities and organisation in matters of peace and security, and in particular to support activities connected with the training of the new security forces in Somalia through the police contingent of the African Union Mission in Somalia, as I had the occasion to announce during the Conference on Somalia which I attended before summer (...).

Also in Somalia, in addition to the battle against piracy at high seas which we have been waging and leading along with our European Union partners in the framework of Operation Atalanta, there is a need to act in concert with the international community to tackle the root causes of the conflict. Without a Government or stable institutions to exercise effective control over Somalia's territory, there is no possibility of a lasting solution. In this connection, looking forward to our forthcoming Presidency of the European Union, we shall be promoting multilateral initiatives to help along the stabilisation process in Somalia, which could lead up to an international conference (...).

The second of the Africa Plan goals is the fight against poverty. Year 2008 saw a major increase of Spanish official development assistance to Sub-Saharan Africa in terms of both multilateral and bilateral budgets, and there was a considerable improvement in the quality of the interventions. In the context of the commitment to reach 0.7% of GDP and to achieve the Millennium Development Goals, Spain's official development assistance in Sub-Saharan Africa came to 1,003 million euro in 2008. 593 million euro out of that amount was spent through multilateral channels and 410 million euro through bilateral channels (...).

In coordination with multilateral organisations, we shall be paying close attention to the dimension of gender equality and the important role of African women in the development process, proposing explicit assistance for the African Union's gender strategy (...).

Spain continues to pay particular attention to the sphere of food security following up the commitments acquired within the framework of the High Level Meeting on Food Security for All held in Madrid at the end of last January, during which our country undertook to contribute 1000 million euro over the next 5 years to finance policies and programmes of agriculture, rural development and food security, much of which will go to Sub-Saharan Africa (...).

The third sphere of action is the promotion of economic and trade relations with Sub-Saharan Africa (...).

In order to assure an appropriate economic environment and a framework of legal security for Spanish businesses, new negotiations have been held with a view to signing reciprocal investment protection and promotion agreements like the one we have just concluded with the Republic of the Congo and Ethiopia, the ratification of the agreement signed with Equatorial Guinea or the forthcoming signing of another agreement with Namibia. And again, on 23 June last we signed a convention with Nigeria to avoid double taxation and tax fraud (...).

Similarly, Spain will continue to promote relations with Africa in especially important spheres such as fisheries, supporting the presence of our fleet both within the framework of the fishery agreements concluded and by promoting the creation of partnerships and mixed-capital companies.

Moreover, considering the growing importance of certain areas of Africa like the Gulf of Guinea – particularly in the production and exportation of hydrocarbons, especially oil and liquid natural gas – and also the heavy dependence of our own economy in this area, in its relations with African producing countries Spain will always pay special heed to the dimension of energy security, strategies for diversification of supply and promotion of renewable and lasting energy sources (...).

In fourth place, as regards association with Africa in relation to migration, we have continued to consolidate the approach and the progress achieved in the previous legislature. The global view of migrations and their management that we have built upon the pillars of organisation of legal migration, a coordinated fight against illegal immigration and the mafias that traffic with human beings, and the strengthening of our institutional capabilities for the design of policies and strategies for the creation of training and employment or synergy between migration and development, is shared and appreciated today by the African countries as a whole.

On the bilateral front this policy is reflected in the framework or second-generation agreements that we have signed to date with the Republic of Guinea, Gambia, Guinea-Bissau, Niger, Cape Verde and Mali, establishing a stable, coordinated and coherent framework for management of migrations, on a basis of respect for human rights.

On the multilateral front we have continued to support initiatives deriving from the Second Euro-African Conference on Migration and Development, or the Rabat Process, and we have accentuated the regional side by pursuing financial actions with the Migration and Development Fund created by Spain and the ECOWAS (...).

In fifth place, in the context of strengthening of Spanish-African relations multilaterally and through the European Union, I must highlight that at this time our country is actively involved in all the initiatives that have been set up to deal with complex situations, particularly in the International Contact Groups on Guinea-Conakry, Guinea-Bissau and Somalia, which has entailed working even more closely with the sections dealing with peace and security of organisations such as the African Union or the ECOWAS (...).

During our Presidency, it will be Spain's task to promote a review of the political dialogue between the European Union and Africa initiated in the Lisbon Summit, and to make fresh proposals for a new action plan in the European Union-Africa strategy and in the eight partnerships included in that strategy, all with a view to using our own Presidency to prepare the summit due to be held between the European Union and Africa during the Belgian Presidency (...).

As regards the sixth and last goal of Africa Plan, which bears on Spain's political and institutional presence in Africa, (...) I would like again to highlight the importance of parliamentary diplomacy in the conduct of our relations with Sub-Saharan Africa in view of the high added value inherent in it in the African context that is often characterised by the chronic structural weakness of

parliamentary institutions, which should receive support from other parliamentary institutions like our own.

(...)"

(DSS-C, IX Leg., No. 219, pp. 3–7).

d) Asia

Note: See XI.3. Immigration

In his appearance before the Senate's Committee on Foreign Affairs, on 19 February, to present Asia Pacific Action Plan, the Secretary of State for Foreign Affairs, Mr. Lossada Torres-Quevedo, reported that:

"(...) [A]t the start of this legislature the Government undertook to launch an Asia Pacific Action Plan [*Plan Asia Pacífico 3: 2008–2012*] for the period 2009–2012, with a threefold objective: to continue to increase our presence and visibility in the area, to consolidate the progress made in the previous legislature, and to seek new avenues to enhance Spain's image and effectiveness in the region (...).

On the political front we intend to maintain that agenda of high-level tours and visits (...). We shall continue to consolidate the current agenda of political dialogue with all those countries where we have diplomatic representatives. We propose to establish diplomatic relations with the few countries still lacking them with Spain, specifically Bhutan and Kiribati. We shall be completing the diplomatic and cultural deployment proposed in the Action Plan of the last legislature by opening embassies in Cambodia and Cervantes centres in Delhi and Sydney (...).

Scientific and technological cooperation is another important area, as for instance tourism promotion – the consolidation of integral market development plans, mainly with China, Japan, Korea and India; the proper development of a speedier visa policy for businessmen and tourists; and the support for Spanish business schools and law firms in the area. These are some of the most important elements that have been detailed country-by-country in the new Asia Plan in this respect (...). Another axis that we intend to continue is the promotion of our culture and education. The growth from an only Cervantes Centre in Asia in 2004 to six that will soon be in operation marks a more than considerable change (...). In addition, we shall continue to promote initiatives in the wake of the Spanish Years, and years dedicated to other countries, held during the last legislature; for example the one dedicated to China in 2007 was a particular success. We shall also support the Spanish presence at the Universal Expo of Shanghai in 2010, and the Yeosu International in 2012 – again two Asian venues where our foreign policy in all areas has the chance to project a strong image of our country.

We shall consolidate our development cooperation and humanitarian aid in response to natural disasters in Asia, based on the work of past years. The draft master plan for Spanish cooperation, which is now being finalised, identifies two

priority countries in Asia – the Philippines and Vietnam – and four focalised partnerships with Afghanistan, Bangladesh, East Timor and Cambodia. And still in Asia, our cooperation seeks to redouble its efforts to help achieve the Millennium Goals, and to use the available new resources and instruments to that end (...).

Then again, in these four years illegal immigration has become an issue of importance in the political agenda with Asia. The increase in the arrival of illegal immigrants from southern Asia has prompted an intensification of political contacts and cooperation in this field with the Governments of India, Bangladesh, Pakistan and Sri Lanka (...).

Other important facets of this external action include the fight against drug trafficking, the prevention of piracy at sea, the collaboration in peace processes and the work with our partners and allies in favour of non-proliferation of nuclear weapons in the area (...).

What needs to be mentioned separately is our effort in Afghanistan, where Spain has acquired a commitment to the Afghan people and the international community to consolidate the governance, reconstruction and viability of the country in accordance with the United Nations mandate and within the NATO and the European Union's frameworks. This all amounts to a military and civilian presence in very difficult conditions, maintaining that presence during the political phase that opened following the London Conference in January 2006 and the implementation of the so-called Afghanistan Pact, to which Spain promised 150 million euro for a five-year period, which amount is essentially being spent on projects of reconstruction, health, gender, governance and support for the country's institutions.

The protection of human rights is also one of the fundamental axes of our external action and will continue to be a prominent feature in Asia and the Pacific during this legislature, as it did in the last one (...). Other important elements in this context, and also during our Presidency of the Union, will include policies of support for refugees and more active participation in the critical dialogues on human rights carried out by the European Union. Gender equality policies are a priority of the Government which the Minister of Foreign Affairs and Cooperation has also espoused in the exterior dimension (...).

The definitive consolidation of Casa Asia in Barcelona has been magnificently reflected in the opening of a branch in Madrid and the participation of its city council in the Board of Trustees. During this legislature we hope to see new antennas in Valencia, Bilbao and Galicia. Casa Asia has proven itself a tremendously effective instrument, which not only pursues its own programmes to bring Asia and the Pacific closer to Spain, but it also cooperates very actively with the Ministry's policy in many of the areas I have mentioned. The forums, the Council Foundations (China and Japan), the Tribunes (India, Korea and the Philippines) and parliamentary diplomacy are likewise especially valuable instruments which we intend to keep on pushing (...).

As regards China, our bilateral relations with the giant of the region are framed within an integral strategic association according to the joint declaration that was signed on the occasion of Chairman Hu Jintao's visit to Madrid in November

2005 (...). The promotion of Spanish culture and language is another highlight, with the commitment to the opening of Confucius institutes in several of our cities. We also propose to install a Spanish pavilion at the Shanghai 2010 Expo, which will represent us there and can be kept on afterwards as a permanent headquarters for the organisation of cultural events, as a symbol of our country and of the impetus we wish to give to our cultural relations (...).

(...).

As a priority market for Spain, there is an integral plan for development of the Japanese market, where six million euro was spent in 2007 in support for trade and investment (...). Spain is the fourth largest European Union country in Japan in terms of business presence. [O]n 3 December an agreement was signed in Madrid between the CDTI [Spanish Centre for the Development of Industrial Technology] and its Japanese counterpart, the NEDO (New Energy and Industrial Technology Development Organization), to promote technological cooperation between organisations of the two countries, and another agreement between the Ministry of Science and Innovation and the Japan Science and Technology Agency to cooperate in the field of nanotechnology.

India is likewise a priority country with which the Government has acquired the political resolve to situate its bilateral relations at the same level as with other major Asian powers (...).

The two countries share the principles and priorities of the International Agenda for the Fight against Terrorism, which we need to stimulate by means of joint initiatives and efforts, such as moving towards the conclusion of the Global Convention on Terrorism, of which India was the original promoter (...). Pakistan is a key country for the stabilisation of Afghanistan and the fight against terrorism and radicalism.

Alongside terrorism, immigration has also become one of the major issues on the bilateral agenda. Although not registered as a beneficiary country of the Master Plan, Pakistan is included as a pilot country among those receiving assistance from the Spain-UNDP Fund.

Within South-East Asia, Spain has a special relationship with the Government of the Philippines, a relationship of which we would like to take advantage to support its stability. Spain is the European Union country most closely involved in supporting the economic, social and political development of the Philippines, and it is Spain's desire to continue in that way. To that end we plan to maintain the priority status of our cooperation as one of the main assets of our bilateral relationship. One important facet in our bilateral relations is cooperation in the field of protection of human rights. As I mentioned in my speech, the Philippines recently became the first Asian country to abolish death penalty, due – as its President himself admitted – to the action and representations of the Spanish Government when Francisco Larrañaga was sentenced to death.

Our cultural action, rooted in long years of shared history, is widely accepted in the Philippines and the demand for Spanish is steadily growing. The Cervantes Centre in Manila, the first and the only one Spain possessed in Asia until very recently, is also one of the first in the world in terms of student numbers, although the most important aspect from the standpoint of our cultural

relationship is undoubtedly the reincorporation of Spanish into the Philippine education system.

Australia and New Zealand are undoubtedly the two most important countries in the Pacific region, and thanks to the strengthening of relations that we pursued with both countries in the course of the last legislature, we can achieve a more effective projection of our foreign policy into remoter areas, such as Polynesia in the case of Australia, where we have opened a new embassy; and incidentally, New Zealand also supports positions very close to those of Spain at the United Nations and in connection with the Alliance of Civilisations.

(...)"

(DSS-C, IX Leg., No. 107, pp. 3–7).

3. Immigration

Note: See XI.1. Development Cooperation and XI.2. Assistance to Developing Countries

In reply to a question tabled in Congress on the Government's new lines of action in immigration policy to slow down the arrival of immigrants in connection with Senegal, the Government explained that:

"The Spanish Government's immigration policy is a comprehensive policy which takes into account the manifold aspects of the complex phenomenon of immigration, and whose clearly-stated objective is to monitor that aliens arrive in Spain in a lawful and orderly manner, thereby facilitating their integration and the full exercise of the rights to which they are entitled.

The fight against irregular immigration and trafficking in human beings is therefore one of the objectives of immigration policy – not only that of the Spanish Government, but of all the Member States of the European Union (...).

1. Cooperation in the fight against irregular immigration.

Senegal is one of the States with which there has long been an ongoing dialogue on cooperation over immigration. Operational cooperation suffered a serious setback in 2003 when the Senegalese immigration authorities at Dakar airport refused to readmit people who had been issued with papers by their consular authorities in Spain, alleging that they were not Senegalese nationals (...). However, the permanent dialogue on immigration with the Senegalese authorities has achieved the following:

- Nationals were returned during 2006, 2007 and 2008, which is a very positive outcome for bilateral cooperation.

- Also, in order to impede and reduce the numbers of arrivals by boat that took place in the summer of 2006, Spain sponsored action by FRONTEX (the European Union's Borders Agency) and has contributed material and personnel to the Agency with which to set up a naval and airborne operations system to patrol all the part of the African Atlantic coast that can serve as a point of departure for crafts (*pateras* and *cayucos*) sailing for Europe, and above all for the Canary Islands.

And again, a cooperation agreement was reached with Senegal which provides for the donation of two patrol vessels, five all-terrain vehicles, communications material, an Aviocar C-211 aeroplane and a UH-10 helicopter, also including the maintenance of the aircraft, and the creation of mixed patrols in order to improve control of Senegal's borders.

2. Possibility of a Spanish-Senegalese framework agreement for cooperation on immigration.

(---) [T]he object of which would be to promote a migratory policy with a global approach that enjoys the cooperation of the countries of origin, a policy promoted by the office of the Secretary of State for Immigration and Emigration.

3. Agreement for cooperation in the field of prevention of emigration of Senegalese unaccompanied minors.

To that end the Parties have undertaken to adopt preventive measures fostering the social and economic development in the areas of origin of the unaccompanied minors, the control of human trafficking rings and the awareness-raising and information for the populations of origin.

4. Community initiatives.

Within the framework of the European Union, Spain proposes to apply or develop the Cotonou Agreement – an Agreement signed on 23 June 2000 between the European Communities and the States of Africa, the Caribbean and the Pacific whose provisions include both maintenance of political dialogue and cooperation on immigration, and among others a mutual commitment to readmit nationals of their own who are staying in one of the other Party's Member States irregularly. However, some African States insist that this be conditional upon the conclusion of agreements laying down the operational and cooperation mechanisms necessary to implement a concerted repatriation policy.

Spain is also one of the Member States directly involved in the Community initiatives on immigration and development aimed at improving cooperative relations with Senegal. In particular, Spain took part in the European Union Mission that travelled to Senegal on 26 and 27 September 2007, one of the specific Missions listed in the Conclusions of the European Council of December 2006 dealing with the global approach to migrations, within the framework of the political dialogue on migrations, as a follow-on to the Rabat and Tripoli Conferences”.

(*BOCG-Congreso.D*, IX Leg., No. 237, pp. 349–350).

In reply to a parliamentary question on the expectations regarding the intensification of police cooperation with Mauritania, the Government reported that:

“Operation Hera 2008 began on 4 February 2008, to control illegal immigration on boats leaving the Atlantic coasts of Africa. Several European countries took part in the operation, which was coordinated by the European Borders Agency (FRONTEX) and led by Spain. The operation has been deployed in jurisdictional waters of Mauritania, Senegal and Cape Verde and enjoys the authorisation

and cooperation of those African countries. The resources that have been supplied are one helicopter and one Corps patrol vessel, 17 Civil Guards and one Liaison Officer (...).

In addition, (...) the Memorandum of Understanding signed with the Mauritania's National Gendarmerie on immigration control was renewed. This renewal will run from 1 September 2008 to 28 February 2009, and it authorises the Civil Guard to base two patrol vessels, a helicopter and an Mother Vessel in Nouadhibou to patrol the territorial waters and the area adjoining the country. It has also been agreed to carry on assigning a Liaison Officer to each of the Institutions in the respective countries.

Likewise, at the same time a Collaboration Protocol was signed with the Mauritanian Directorate-General for National Security on security and the fight against terrorism and organised crime (...).

(*BOCG-Congreso.D*, IX Leg., No. 147, pp. 604–605).

4. Humanitarian Assistance

In reply to a question on the humanitarian crisis affecting the population of the Gaza Strip in the latest bombardments by the Israeli army, the Government stated that:

“Most of the Humanitarian Action projects and actions in the Palestinian Territories are carried out jointly and simultaneously in the Gaza Strip and the West Bank, and therefore to answer the question we have chosen both projects implemented exclusively in the Gaza Strip and projects implemented in both zones.

There are three lines of action:

1. Multilateral

Six projects carried out by various United Nations agencies or organisations have been financed: the United Nations Relief and Works Agency (UNRWA), the United Nations Food and Agriculture Agency (FAO), the United Nations Children's Fund (UNICEF), the United Nations Development Fund for Women (UNIFEM), the United Nations Office for Coordination of Humanitarian Affairs (OCHA) and the World Health Organisation (WHO), in the areas of economic reconstruction and infrastructures, agriculture and food security, protection, health and humanitarian coordination.

2. CIFAD Funds (Interministerial Commission on Development Assistance Funds)

Instruments of this kind have been used to finance the Palestinian Health Ministry by means of the PEGASE mechanism (European aid for building the Palestinian State).

3. Financing of NGO projects. Six NGOs have been financed, three of them Palestinian, two Spanish and one Israeli. The spheres of intervention are health, protection, human rights and the rule of law, education and food security.

The following emergency actions were carried out in response to the crisis that broke out on 27 December 2008:

1. The Prime Minister promised a contribution to the UNRWA, to be channelled through the CIFAD.

2. Multilateral.

Funding was supplied to the International Committee of the Red Cross (ICRC) for acquisition and distribution of medicines and training of health personnel.

3. Financing for NGO-run projects.

Funding was granted to the Palestinian Red Crescent (PRC) for acquisition and distribution of medicines.

4. Direct aid.

A total of 4 aircraft were chartered as follows:

a) 12 January 2009: 2 shipments of humanitarian material to Amman, Jordan. One of these was paid for exclusively by the Spanish International Cooperation Agency (AECID): blankets, napkins and family hygiene kits. This humanitarian material was delivered to the Jordanian Hashemite Charity Foundation, which passed it on to the UNRWA.

The second aircraft, paid for exclusively by the Spanish Red Cross (CRE), consisting of plastic tarpaulins, kitchen kits and family hygiene kits, was delivered to the ICRC.

b) 18 January 2009: One shipment of humanitarian material to Amman, Jordan. This operation was similar to the one on the 12th. One of these, paid for exclusively by the AECID, consisted of blankets, napkins, family hygiene kits, inflatable mattresses and tarpaulins for shelter. Again the cargo was delivered to the Jordanian Hashemite Charity Foundation, which passed it on to the UNRWA.

c) 19 January 2009: One shipment, paid for exclusively by the Spanish Red Cross, included plastic tarpaulins, family hygiene kits, kitchen kits, inflatable mattresses and a potabiliser. The cargo was delivered to the ICRC.

The first of these was organised exclusively by the AECID.

5. Convention between the AECID and Action against Hunger. In 2007 the AECID signed a Convention for Action against Hunger, consisting basically of two lines of intervention: risk prevention and preparation for disasters, and rapid emergency intervention to assist, among others, populations affected by conflicts and/or acute crises.

In this context, in January 2009 the Convention was activated to carry out the distribution of drinking water and treatment of sewage”.

(*BOCG-Congreso.D.*, IX Leg., No. 286, pp. 148–149).

5. External Debt

In his intervention before the Congress’ Committee on International Cooperation, on 25 November, the Secretary of State for the Economy, Mr. Campa Fernández, reported on the principal lines of management of the external debt:

“(…)

The general principles of management of the external debt are laid down in External Debt (Management) Act 38/2006 (...). The basic management principle

is respect for financial stability and contractual obligations... In crisis situations like the present one, indebtedness can also be used by States to finance anti-cyclic policies. In short, the recourse to indebtedness is not in itself a negative element. On that basis, according to the Debt Act, actions such as restructuring or forgiveness must be subject to principles of necessity and efficiency; in other words, they must only be resorted to when they are necessary, as in the case of over-indebtedness, and efficiency and development cooperation must be pursued at all times – principles whose observance can be assured by proper internal and multilateral coordination and conditions suited to the particular circumstances in each case.

(...)

On 31 December 2008 the total debt amounted to 8,486.3 million euro, of which 52 per cent is debt incurred from transactions financed by the Development Assistance Fund, 40 per cent is commercial debt from transactions insured by CESCE, and the remaining 8 per cent is debt of other kinds (...).

The geographical distribution of the stock of debt is very similar to previous years: the principal debtors of the Spanish State are Latin American countries with 47.63 per cent of the total, followed by Asian countries and Sub-Saharan Africa. Cuba is to be pointed out within the first group, with 21 per cent of the total debt of the Spanish State, and Argentina with 13 per cent (...).

As regards outstanding debts... the analysis on 31 December 2008 showed that total outstanding debts to the Spanish State amounted to 2,514 million euro, which is 29.6 per cent of our total external debt, a figure which is 4.73 per cent inferior to the one in 2007. The three countries with the highest outstanding debts last year continued to head the list in 2008: Cuba, with outstanding debts totalling 1,778 million euro, and Argentina with 343 million euro. These two countries account for 85 per cent of the total outstanding debts.

(...).

During the 2008 financial year, there were forgiven those debts totalling 247 million euro at the exchange rate current at the time of the agreements. This amount is especially important if we consider its impact on the public deficit, which goes to underline the tremendous budgetary effort that this development policy represents in the present times of budgetary austerity. We shall therefore be carrying on the active policy pursued in this area in the previous legislature. On the bilateral front, five programmes of debt conversion by public investment were initiated in 2008 for a total of 151 million euro; in 2009 conversion programmes were also signed with Ghana and Bolivia and preparations are under way to sign agreements with Mozambique and Tanzania, all four programmes the result of application of the Debt Act...

As regards the regions benefiting from the agreements signed since January 2008, we should highlight the following – Africa was the major focus of conversion policy in 2008, with the Government committing to programmes totalling 113.3 million euro, mostly deriving from further debt forgiveness to HIPC countries, culminating implementation of the provisions of the 2006 Debt Act. And in implementation of these commitments, debt conversion programmes

have been signed with Mauritania for 20.2 million euro, with Senegal for 66.4 million euro, with Uganda for 15.9 million euro, and by way of Africa Plan a conversion programme has been signed with Tanzania for 10.8 million euro. In 2009, we have so far signed another programme with Ghana for 31.8 million euro, and we hope shortly to sign programmes with Tanzania for 7.5 million euro and with Mozambique for 11.8 million euro. In Central America, a conversion programme was signed in 2008 with Nicaragua, a HIPC, for 37.45 million euro, as part of the debt to education conversion initiative launched in 2004. In South America, a conversion programme was signed with Bolivia in 2009 for 58.2 million euro.

(...)

And again, 2008 saw the culmination of the debt reduction programme with Iraq; in 2004 the creditors of the Paris Club agreed on a treatment for the Iraqi debt, consisting in an 80 per cent reduction in three stages. In the third stage, which ended in December 2008, Spain forgave 85.5 million euro of debt. Finally, of the other issues discussed within the Paris Club framework in 2008 in which Spain had an active part, we would particularly highlight two. The first is that it was agreed to set up two permanent working groups to enhance coordination with creditors who are not members of the club, aimed at addressing solutions other than litigation against HIPC countries in view of the concern at the implications of actions carried out by so-called vulture funds, and intensifying dialogue and coordination. The second is that in 2008 the Paris Club sharply increased its efforts to reinforce the principle of comparability of treatment, for instance through technical assistance for negotiations with third-country creditors (...).

In short, the Spanish Government has a clear commitment to devoting the maximum attention to active and supportive debt management. In that respect I would like to highlight two facts. On the one hand, that the official development assistance generated by 2008 debt operations totalled around 237 million euro. On the other hand, as I said, that the estimated total cost of the HIPC initiative to Spain comes to 3,176 million euro, of which 162 million was for forgiveness operations carried out in 2008, and as I pointed out before, this has a direct impact on Spain's public deficit.

(...)"

(*DSC-C*, IX Leg., No. 428, pp. 4–6).

XII. INTERNATIONAL ORGANISATIONS

1. United Nations

In his address to the UN Security Council on 26 June 2009, the Spanish Representative, Mr. Oyarzun, referred to the peacekeeping operations undertaken by the United Nations:

"Spain endorses the statement made earlier this afternoon by the Permanent Representative of the Czech Republic on behalf of the European Union and shares the interest in enhancing the effectiveness of United Nations peacekeeping operations and in continuing to convene open debates on this theme to discuss the various challenges we face. My delegation considers that at least three debates on peacekeeping a year would be reasonable in order to appropriately update the information on the initiatives under way and to assess the level of compliance with the provisions of Resolution 1353 (2001), on measures for cooperation by the Council with countries contributing troops to peacekeeping operations. Spain encourages the Security Council Working Group on Peacekeeping Operations to make more in-depth efforts on the implementation of the recommendations regarding cooperation with troop-contributing countries, as contained in its December 2006 Report (see S/2006/972).

These open debates of the Security Council make it possible to consider in depth the various factors affecting the maintenance of international peace and security, primary responsibility for which lies with the Security Council, in accordance with the Charter of the United Nations. But we must also recall that, under paragraph 2 of Article 11, the General Assembly can discuss any issue relating to the maintenance of international peace and security brought before it by any State Member of the United Nations. The Charter thus establishes interaction between these two principal organs, on which I wish to say a few words.

I will recall in particular Article 15 of the Charter, which provides that the General Assembly shall receive and consider annual and special reports from the Security Council and that these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security. It would also be desirable to improve coordination between the Security Council and other General Assembly bodies, in particular its Special Committee on Peacekeeping Operations, which, as members know, was established pursuant to General Assembly Resolution 2006 (XIX) of 18 February 1965 in order to comprehensively consider peacekeeping operations in all their aspects.

Spain is marking the twentieth anniversary of its participation in United Nations peacekeeping operations, which began in January 1989 with the deployment of military observers to the first United Nations Angola Verification Mission. Since then, more than 30,000 Spanish soldiers have participated in 20 United Nations peacekeeping operations and have suffered 29 deaths in the course of those operations. Spain is the eighth-largest contributor to the United Nations peacekeeping budget. My country is participating with a total of approximately 1,200 troops and police officers in five United Nations operations. Spain has welcomed with high interest the various initiatives under way to strengthen and improve the management of peacekeeping operations.

These include the joint Department of Peacekeeping Operations/Department of Field Support's 'New Horizon initiative', about which we heard today, along with initiatives of the Council itself and those of Member States. In that regard,

we attach high priority to harmonising all initiatives in order to optimise efforts and avoid duplication. This would make it possible to optimise and rationalise the use of resources, which is a key goal during the present economic crisis.

Spain wishes also to stress one aspect of the 'New Horizon initiative' – that it is a priority to maximise the overall capacity of operations, both in terms of numbers of personnel deployed and in terms of responding to the challenges posed to operations by difficult logistical and security conditions. We must bear in mind that the experience of countries contributing troops and other personnel provides us with a clearer view of what is taking place on the ground. We cannot forget that those who truly forge peace are the men and women at work in conflict zones.

As the Brahimi Report (S/2000/809) has already stressed, in order to improve the effectiveness and scope of peacekeeping operations it is essential that the United Nations work in collaboration with regional organisations. Peacekeeping operations are very costly, and we must make them as effective as possible. For that reason, in addition to using diverse conflict prevention measures, it is also of fundamental importance to share tasks with other regional organisations.

The European Union and the United Nations have attained a high level of cooperation, as recently exemplified by the successful handover from the European Union military operation in the Republic of Chad and in the Central African Republic and the effective protection provided by vessels of European Operation Atalanta, which is making possible the provision of United Nations humanitarian aid to the Somali people. Our cooperation has progressed markedly and imaginatively, and we hope that in the future the European Union will further strengthen its role in all conflict-prevention, peace building and peacekeeping processes.

Possible future areas of cooperation with the United Nations under consideration include support for Africa's peacekeeping capacity, in particular with respect to training, and strengthening existing cooperation on security sector reform.

Spain recognises the special importance of the protection of civilians in the peacekeeping sphere. We believe that such protection should be clearly defined in the mandates of operations approved by the Security Council. We attach great importance to the inclusion of this concept in Mission mandates, and consider that these should also include provisions for the effective oversight of compliance and that sufficient capacity for successful implementation should be allocated.

Spain believes that it is essential that potential contributors of troops and financial resources participate in the integrated planning process for United Nations peacekeeping operations, along with all other necessary actors within the system. They should also participate in identifying objectives for properly assessing the exit strategy for a peacekeeping operation in a given region or country. In our view, the consistent involvement of all players in the integrated planning of a peacekeeping operation is of decisive importance in giving proper direction to a country's recovery.

Spain wishes finally to stress its recognition of and full support for the efforts being made by the Department of Field Support to improve the effectiveness and efficiency of logistical support for peacekeeping Missions.

I conclude by reaffirming Spain's fundamental commitment to the principles and purposes of the United Nations, especially to the maintenance of international peace and security".

(UN Doc. S/PV.6153 (Resumption 1), pp. 11–12).

2. North Atlantic Treaty Organization

a) New Strategic Concept

On 1 April 2009, the Minister of Defence, Ms. Chacón Piqueras, addressed the House to report on the Spanish Government's priorities regarding NATO's new concept of strategic defence. During that appearance, she referred to the principles and criteria underlying the Government's action within NATO:

"There is a very broad consensus around the need to review this strategic concept, especially in the light of the events of 11 September 2001 with the attack on the Twin Towers, a view that was substantiated by subsequent terrorist attacks by radical Islamists in Madrid, London, Casablanca, Bali, or more recently Islamabad or Bombay.

A review of this concept is therefore necessitated by other risks or threats arising from the existence of failed States in which terrorist groups are able to act and prepare with impunity, nuclear proliferation or chemical weapons. And Spain wishes to be part of this updating. Let me advance some of our positions. We believe that these new risks and threats facing us need to be more clearly identified, among them the terrorist threat, the fight against piracy or the conflicts arising in connection with access to basic resources such as energy or water. As regards the sphere of action, we wish to see it limited to the Euro-Atlantic and neighbouring areas, which seems more in line with the threats and the operations the Alliance will focus on now and in the future, and we believe there is a need to stress the growing credibility of cooperative security, now being addressed within NATO and its partners (...). In this respect let me say that we intend to press NATO to attach special importance to the Mediterranean dialogue and the Istanbul cooperation initiative.

I would also like to say something about the principles and criteria for decision-making by the Government within the Alliance, which are also expressly mentioned, and other multilateral security and defence organisations. The Government has held firmly to its principles regarding Spain's action on the international stage and our participation in overseas peacekeeping operations, and likewise regarding international legality, effective multilateralism and an unwavering commitment to international peace and security. To which principles I must add the following Act by this Parliament, the National Defence Act, which gives this House the last word on authorisation for the dispatch of our troops on any overseas Mission in accordance with those criteria".

(*DSC-P*, IX Leg., No. 72, p. 44).

b) Military Structure

In her appearance on 17 December 2009, Ms. Chacón Piqueras set out the main points of Spanish participation in NATO:

“Among the most outstanding aspects of its transformation, NATO has considerably reduced the size of its forces and commands, it has created multinational units, substituted the concept of an enemy and developed cooperative security, whereby cooperation between nations is the best way to prevent the risk of conflicts. As well as participating in NATO operations, Spain contributes personnel to the Alliance’s permanent structure, both at the general headquarters and in the command structure, and provides general headquarters and units for the forces structure. Starting in 2010, Spain’s participation will account for 4.55 per cent of the total NATO budget, making us the seventh largest contributor”.

(*DSC-C*, IX Leg., No. 452, pp. 3–4).

c) NATO Operations

c.1) Kosovo

In her speech on 1 April 2009, the Minister of Defence referred to the role of the Spanish forces deployed in Kosovo following the unilateral declaration of independence by the institutions of self-Government of Kosovo:

“Following the unilateral declaration of independence by Kosovo on 17 February 2008, which Spain has not recognised, for the sake of consensus we decided to stay in Kosovo; not to block the NATO presence in Kosovo by opposing it; to stay on despite not recognising it, but to do so on the basis of the plan of operations devised under Resolution 1244 prior to the declaration of independence.

(...)

Inasmuch as today the authorities in Pristina, and even NATO, are clearly of the view that these functions of Resolution 1244, under which Spain sent its contingent ten years ago have terminated, there is no longer any reason for Spain to be there.

(...)

Most of our allies, who have recognised Kosovo’s independence, have new tasks which warrant their carrying on in KFOR on the basis of this Resolution, but I must stress that from the moment independence was declared, Spain announced that we wished to stay, that did not wish to prevent a consensus for NATO’s remaining in Kosovo, but that we could only perform our tasks on the basis of Resolution 1244 in the plan of operations as it was before the change brought about by the declaration of independence. (...) Therefore, the reasons why Spain no longer has any valid functions in Kosovo have nothing to do with those of Great Britain or of any of the other allies”.

(*DSC-P*, IX Leg., No. 72, pp. 44–45 and 47).

On 7 April 2009, the Minister of Defence, Ms. Chacón Piqueras, appeared before the Congress’ Defence Committee to report on the return of the Spanish military contingent that had taken part in the KFOR Operation:

“The declaration of independence was a crucial step that radically altered the situation and forced us to reappraise the need for our presence there...., Spain did not recognise the independence of Kosovo on the ground that it violates a basic principle of International Law – namely respect for the territorial integrity of States. This was not the attitude adopted by other allies, who did recognise Kosovo as an independent State; moreover, they asked NATO to review the KFOR’s objectives; in addition to the existing Mission, they asked the KFOR to include new tasks explicitly connected with the recognition of Kosovo’s independence.

(...)

[I]t was from a sense of responsibility that we decided to remain temporarily in Kosovo so as not to let the population or our allies down; and for the sake of coherence we decided to stay on for as long as was strictly necessary for our troops to carry out the tasks for which they had been sent to Kosovo ten years earlier. But not to work on the new tasks, which other allies did – and do – which are directly connected with the creation and consolidation of the new security and defence structures of the independent State of Kosovo, which Spain does not recognise.

Two months (...) after the unilateral declaration of independence, on 30 April 2008, the North Atlantic Council approved the initiation directive. This document set out the premises framing the new review of the plan of operations that some of our allies – the ones that had recognised Kosovo’s independence – were calling for. This new plan assigned new tasks to the KFOR, such as the creation and consolidation of new security and defence institutions for the newly-independent Kosovo. (...) But the same meeting also approved the KFOR’s assumption of the new tasks. Through a sense of responsibility and coherence, the Spanish Government did not veto that possibility, because – and I repeat – we believe that it would have created a division in the Alliance and would have been directly prejudicial to the civilian population. Nonetheless (...) at these meetings we also stood firm on our position regarding Kosovo’s independence, and we reiterated that Spain would not take part in the new tasks assigned to the KFOR.

At the same time, on 24 November 2008, the UN Secretary-General approved the reconfiguration of the UN’s Interim Administration Mission in Kosovo, UNMIK. (...) That reconfiguration allowed the UNMIK’s functions to be transferred to the European Union Mission for the Rule of Law in Kosovo, code-named EULEX. Operational since February 2009, EULEX is a technical Mission whose purpose is to sponsor, supervise and advise the Kosovo Government on respect for the Rule of Law, specifically in the areas of police, justice and customs.

On 10 December last, the KFOR commander and the EULEX head of Mission signed the joint operational procedures to regulate the KFOR’s cooperation with EULEX in the operational areas of policing, intelligence, borders and action in the event of disturbances. EULEX, which first became operational in December, has been gradually expanding its tasks.

(...)

The KFOR is performing increasingly less functions related to direct security. Its duties are increasingly related to the creation and consolidation of the new security and defence structures of the independent State of Kosovo, and I repeat that for the sake of consistency with our position regarding Kosovo's independence, the Spanish armed forces cannot participate in these tasks, either financially or operationally. That is why, throughout this process, our presence has become increasingly pointless in the last few months. Over the last year Spain has made known in several forums its desire to cut back its personnel and pull out of Kosovo, but we shall only do so once there are guarantees that this will not leave a security vacuum. I expressed myself in the same terms to this same Committee when I appeared on 10 December last to report on peace-keeping operations overseas. On that occasion I assured to the Committee that we would stay on... so as to avoid any security vacuum during the transfer of UNMIK functions to EULEX.

(...)

Then, (...) aware that our troops had less and less tasks to perform, and above all that the security of the civilian population was assured, the Spanish Government judged that it was safe to consider our Mission in Kosovo accomplished. We then decided to order the gradual, coordinated withdrawal of our troops from Kosovo, and prepared to make it known. From then on, once the decision had been taken, it remained only to decide on the exact moment for withdrawal. And that moment (...) was decided on the basis of the operational needs of the Spanish armed forces.

(...)

Spain went to Kosovo ten years ago due to a sense of responsibility and coherence. Spain has kept its troops there for the last thirteen months as a gesture of responsibility, and now, having determined on withdrawal, which will be gradual and coordinated with our allies, we are once again demonstrating a sense of coherence and responsibility.

(...)

Notice of the decision was given in due form, through all the proper channels and in accordance with all the requirements. On Wednesday 18 March, I personally advised the NATO Secretary-General and some of our closest allies. Then, on 19 March, the decision was officially notified through the normal diplomatic channels to the Alliance's civil and military authorities before a public announcement was made. Also, that same day, as you know, all the spokespersons of the parliamentary groups in Congress and the Senate were advised, along with the chairpersons of the two Defence Committees. As Minister of Defence (...) from the outset I thought that our troops in the region should be told of the decision directly. And I repeat that our troops were told of the decision after our allies had been advised; however, our troops have been working for ten years in hazardous conditions for stability and peace in Kosovo, and I judged it best to tell them of the withdrawal in person during a visit I paid to the Spanish Base in Istok on 19 March. I must highlight that what this Government announced was the decision to withdraw, not the immediate withdrawal of our troops. It

was announced that the withdrawal would take place in stages, in coordination with our allies and friends. We made it clear from the very first moment that although the decision to withdraw is firm, the timing and the planning of the withdrawal will be determined flexibly, in coordination with our allies. Our aim at all times is to assure an effective, and also a responsible, transfer of powers. As a token of this sense of responsibility, I think it important to note that from the very outset we have given the Alliance much more time to carry out the transfer of tasks than have some of our allies. Other countries like France or Poland advised NATO or the United Nations of their intention to reduce their contingents in Kosovo or Lebanon only two or three months in advance; in the case of the Spanish Mission, our forces will not be fully withdrawn from Kosovo until four to six months after the announcement”.

(*DSCG-Congreso*, IX Leg., No. 250, pp. 5–7).

c.2) Afghanistan

On 17 June 2009, the Minister of Defence, Ms. Chacón Piqueras, appeared before the Congress’ Defence Committee on behalf of the Government to request its authorisation to send additional units from the Spanish armed forces and the Civil Guard to take part in the ISAF-Afghanistan Mission:

“Once Parliament gives its opinion, should it be favourable, the Government will decide as follows: Firstly, to send a battalion to Afghanistan to support the elections to the presidency and the provincial councils, scheduled for 20 August next. This battalion will stay in the country for three to four months depending on whether the elections go to a second round. Secondly, on 1 October, 70 new personnel will be sent to direct and manage the activities at Kabul international airport. The personnel shall be deployed for seven months in accordance with the rotas established by NATO. Lastly, at the end of the year, 12 further personnel will be sent to join a new operational advisory and liaison team; their duties will include instruction and training of a sponsored Afghan military unit.

(...)

Having dealt with the efforts and achievements of our armed forces, I shall now detail the initiatives currently in progress in Afghanistan. The first is the construction of a provincial support base, where the Qala-i-Naw. PRT will be installed. This base will be much larger than the present one and will make it possible to enhance the capabilities and the security of the existing PRT, so that the base can accommodate contingents from other countries deployed in the west of Afghanistan at any time. In addition, the Spanish Government is currently finalising arrangements with the Colombian authorities to incorporate Colombian troops in our contingent. This is in response to a proposal by the NATO Secretary-General himself, who passed on the Colombian Government’s expression of interest in taking part in the ISAF. We recently facilitated the signature of the requisite security agreement between NATO and Colombia, and we shall also be helping to arrange NATO certification of these troops, so that the Colombians can join the Spanish contingent in the next few months.

Likewise, on 28 July 2008 we signed an agreement with the Afghan Ministry of Defence whereby Spain will provide 14.5 million euro to finance, equip and train a company-size unit of 150 troops of the Afghan national army. This sponsorship includes the construction of a barracks in Qalai-Naw for a battalion of around 600 troops of the Afghan army in the province of Baghdis. The Afghan military unit sponsored by us will be based at this barracks. The construction works for the base began on 25 May last and are progressing apace.

(...)

Spain is one of the countries that has long been in favour of a strategy in Afghanistan that places more emphasis on speeding up the Afghanisation process – a strategy that takes account of the ethnic, cultural and religious complexity of the country; a strategy that seeks stabilisation through actions related to both security and reconstruction, with proportionate use of force at all times. We have also spoken in favour of involving all the neighbouring countries and seeking better coordination between the ISAF and Enduring Freedom under the political leadership of the United Nations. These elements are set out in the discussion document entitled ‘An Exit Strategy’, which Spain circulated to our allies during the meeting of Defence Ministers in Brussels in June 2007. Some of them were included in the political-military plan approved in the Bucharest NATO Summit in March 2008.

(...)

They were also included in the strategy update compiled at the Strasbourg-Kehl NATO Summit on 3 and 4 April last. That Summit served to reaffirm the four broad pillars on which the NATO allies’ strategy for Afghanistan must rest – first, to prevent Afghanistan once again from becoming a base for extremist terrorism; second, to promote Afghanistan’s political, economic and social development, and in particular to reinforce its institutions and hence its governability; third, to promote a regional approach that involves the neighbouring countries, and to support cooperation between the Afghan and Pakistani Governments; and last, to strengthen and capacitate the Afghan security forces at all levels, that is Army and Police, so that when the time comes – hopefully sooner rather than later – they can take over responsibility for their country’s security.

(...)”.

(*DSC-C*, IX Leg., No. 310, pp. 2–5 and 20).

In her appearance before the Congress’ Defence Committee, on 23 September, the Minister of Defence, Ms. Chacón Piqueras, reported on the nature of the Mission in Afghanistan:

“[T]he nature of our Mission in Afghanistan is exactly the same as when it began; it has not changed since 27 December 2001 when the Cabinet, headed by Prime Minister José María Aznar, authorised our armed forces to take part in the ISAF. At that time it was an operation under chapter VII of the United Nations Charter, which regulates peacekeeping operations, and now, as the United Nations still defines it that way, the nature of the ISAF remains the same (...).

(...)

Spain has always striven to avoid civilian deaths and has pressed for the adoption of a new strategy, which was recently introduced, designed to avoid them at all costs. Our troops are in Afghanistan to accompany the Afghan authorities and support them in their Missions. According to chapter VII of the United Nations Charter and according to the ISAF rules of engagement, our troops are in combat when so required in order to accomplish their Mission, and of course when attacked, and in that case – I would stress once again – they always put the safety of the civilian population before their own safety.

(...)

I expanded on these points in my appearance on 17 June last following the Strasbourg-Kehl NATO Summit in April. As you may know, that summit gave fresh impetus to the Mission currently carried out by the Alliance in Afghanistan. We are happy to find that the view this Government has always sustained coincides with the new NATO strategy. As you may know, for some time Spain has been advocating a global approach – that is, one that adequately combines military instruments, but also political, economic and diplomatic instruments; one that speeds up the Afghanisation process, which is the process whereby the Afghan authorities take over their own duties and responsibilities with a view to gaining control of the country and reducing its international dependence; one that seeks to create a secure environment, prioritising the well-being of the civilian population while facilitating development and reconstruction; one that advocates more coordination of the efforts of the international community under the leadership of the United Nations; and finally one that constructively involves all the neighbouring countries – some more crucial than ever for the success of the strategy. I would remind my Honourable Members that these elements were already present in the discussion paper entitled ‘An Exit Strategy’, which Spain circulated to our allies in June 2007. Some of them were included in the strategic political-military plan approved in the NATO Summit in Bucharest in March 2008 and in the new strategy agreed in Strasbourg-Kehl. This is a multidimensional strategy and the military instrument is only one facet of it – a means to an end. As this is a peacekeeping operation, the ultimate aim of our presence in Afghanistan is to stabilise the country, strengthen its institutions and help structure its society (...).

The troops currently posted in Afghanistan on a stable basis total 778. In addition to these there are 520 posted on a temporary basis, also duly authorised by the Congress. They are as follows. First, there is a tactical support group for the elections, composed of 450 troops, deployed in the provinces of Herat and Badghis (...). Second, this week a contingent of 66 soldiers and four civil guards were deployed in Kabul. This contingent will be taking over the management and administration of Kabul International Airport for six months starting on 1 October next. Our contingent in Afghanistan has grown over the years as the situation demanded (...). Now, after assessing the situation on the ground, on 8 September last the Defence General Staff presented a report in which they asked to increase our contingent in Afghanistan with 220 stable reinforcements to be deployed in Qala-i-Naw, in addition to the 778 troops that we have there on an ongoing basis (...).

The composition of this reinforcement will be the following – one company, which will make up a tactical manoeuvres group along with the one already deployed in Herat; a core support team for the tactical manoeuvres group, to be composed of combat support units and logistical units; it will also serve to reinforce the logistical support unit at the provincial support base and as a reinforcement for command and control elements which will serve to tackle the added effort of planning, coordinating and controlling the tactical group's new tasks”.

(*DSC-C*, IX Leg., No. 347, pp. 3–11).

In reply to a written parliamentary question regarding the presence of Spanish forces in Afghanistan, on 28 September 2009, the Secretary of State for Constitutional and Parliamentary Affairs explained that:

“The conditions necessary for the Spanish military forces to carry out overseas Missions are set out in Defence Act 5/2005. Among these conditions I must highlight three: the Mission shall be in response to a request from the Government of the State where it is to be carried out, it shall be backed by a Security Council Resolution or be agreed by international organisations of which Spain is a member, in particular the EU and NATO.

(...)

This means that the presence of our forces in Afghanistan is in strict compliance with the legal framework laid down in [Spanish] Defence Act 5/2005 and successive United Nations Security Council Resolutions.

The activities carried out there by the Spanish contingent are set out in the Plan of Operations drawn up by NATO for the ISAF, which is in accordance with the terms of the mandate issued by the United Nations”.

(*BOCG-Congreso*, IX Leg., No. 286, p. 260).

3. Council of Europe

In reply to a question tabled by a Senator, on 19 May 2009, the Minister of Foreign Affairs and Cooperation spoke about the results of the Spanish Presidency of the Council of Europe:

“The European Court of Human Rights (...) was unable to respond successfully due to its success. After more than six years, the Spanish Presidency has succeeded in unblocking the situation, that is the inability of the European Court of Human Rights to cope with the cases of European citizens. We managed this by securing approval of Protocol 14 bis, making it possible to achieve greater speed and efficacy for the European Court of Human Rights. But we have also taken practical steps to provide the Human Rights Commissioner of the Council of Europe with the instruments and tools needed to intervene in a concrete, specific, ongoing conflict like the one taking place in Georgia. In addition, we have worked with the parliamentary assembly (...) which has helped the Spanish Presidency attempt to improve the process of appointing a secretary-general for the organisation”.

(*DSS-P*, IX Leg., No. 39, p. 1752).

4. Organization of American States

Replying to a question in the Senate on 19 May 2009, the Minister of Foreign Affairs and Cooperation referred to the status of Spain within the Organization of American States:

“(...) Spain has always supported all integration processes, all organisations for multilateral cooperation, and it has done so with the OAS. Spain began to cooperate in the sixties and was the first country to accede to the observer status. (...) Two years ago, in 2006, Spain set up an innovative Spain-OAS Fund with more than 8 million euro. (...) We continue to work with the OAS to exchange experiences in the most diverse fields, such as economic development, climate change, electoral observation or institutional consolidation; so we are very active”.

(*DSS-P*, IX Leg., No. 39, p. 1750).

XIII. EUROPEAN UNION

1. Accession

a) Former Yugoslav Republic of Macedonia

In reply to a parliamentary question on Spain's relations with the Republic of Macedonia, on 27 January 2007, the Government informed the Congress about the situation:

“(...) ”

The European Council of December 2005 granted the Former Yugoslav Republic of Macedonia (FYROM) the status of candidate country for accession to the European Union. In the Accession Partnership Document of February 2008, the European Union established certain requirements for the accession negotiations to commence. The Spanish Government firmly supports the European outlook of FYROM and hopes that accession negotiations may commence as soon as the requirements laid down are accomplished.

The Spanish Government, within the Council of the European Union and in the bilateral relations with its contacts in FYROM, encourages the parties to make additional efforts to facilitate the commencement of the negotiations for accession to the European Union...”.

(*BOCG-Congreso D*, IX Leg., No. 157, pp. 181–182).

2. Human Rights

a) China

On 23 January 2009, in response to a parliamentary question regarding the situation of human rights in China, the Government declared that:

“Over the last few years, including the run-up to the Olympics, Spain and the European Union as a whole have made China aware of their concerns about human rights, from a mutual trust standpoint. By eschewing the kind of maximalist approaches that hinder any progress in practice, we have always been able to raise issues such as the treatment of the defenders of human rights, the transparency of information in general and the situation in Tibet in particular. We have also addressed the ratification by the People’s Republic of China of the International Covenant on Civil and Political Rights, or the reduction of the number of offences punishable by death, and of the number of executions, as well as the possibility of a moratorium on their application. The recovery on the part of People’s Supreme Court of the power to review death sentences, or the informative transparency observed on the occasion of the earthquake that hit the Sichuan province last May are proof of real progress, albeit this is not coming as quickly as we wish.

(...). After the organisational and sporting success of the Olympic Games, we expect that Chinese authorities shall feel more confident as to their international status. The freedom of information guaranteed to foreign journalists during the Games has made it possible to project a more comprehensive image of China in Europe which includes not only the negative aspects I mentioned before, but also the considerable progress undergone in economic and social matters in the last few decades. We expect that Chinese authorities shall appraise the benefits of opening up. Therefore, we shall henceforth continue to use the instruments at our disposal to encourage further changes. For instance, through joint European representations and the European Union-China Dialogue on Human Rights, we shall be able to express our concerns about issues such as the release of the persons imprisoned for the events of 4 June 1989. On its part, the Spanish Government shall also continue to take advantage of its fluid channels of communication with Chinese authorities, thanks to the excellent state of our bilateral relations.

Spain fully supports the common European position on the arms embargo imposed on the People’s Republic of China by the European Union since 1989, a consensus on which was sealed at the European Council in December 2004 and was last reiterated by the General Affairs and External Relations Council in December 2006. In accordance with that position, the European Union maintains the political will to work on an eventual lifting of the embargo, but always under the criteria of its Code of Conduct as to arms exports. The criteria include respect for human rights in the country of final destination and specifically prohibit the issue of export licences where there is a manifest risk that the exports proposed be used for internal repression purposes”.

(*BOCG-Congreso D*, IX Leg. No. 157, pp. 154–155)

b) Cuba

Note: See V.3.e) *Cuba*

On 5 December 2008, in response to a senator’s question on the Government’s time estimation to see those policy changes in the Cuban “Castroist” Regime

leading to progress in the respect for human rights and democracy, the Government stated that:

“The Government has never viewed the lifting of the restrictive measures imposed against Cuba in 2003 as an end itself but as a means of initiating a political dialogue with Cuban authorities.

It is worth remembering that dialogue – combined with development cooperation – is the instrument contemplated in the EU’s Common Position on Cuba (1996) to achieve the Union’s objectives in the Island (basically to encourage a process of transition towards a pluralist democracy, to assure full respect for human rights and to improve the living conditions of the population).

The Government interprets the term ‘unconditional’ to mean that in any future dialogue none of the two parties (i.e. Cuba and the EU) shall set prior conditions for commencing talks. This does not mean at all that the EU or the Spanish Government approves the current human rights situation in the Island. Nonetheless, we believe that, through dialogue, the EU may convey the appropriate messages to the authorities there and so help provide the changes we all desire.

Before proposing any concrete initiative within the framework of a future dialogue, the Spanish Government feels it will be better to await the response of Cuban authorities before EU’s offer of dialogue.

The steps that we expect on the part of the Cuban Government are obviously steps leading to the objectives set out in the Common Position aforementioned. Likely changes are to take place gradually. However, measures such as the release of political prisoners would obviously be very welcome, and would meet the request made on numerous occasions by both the Spanish Government and the EU. At the same time, the gradual introduction of economic reforms – a process now under way – shall logically bring the gradual improvement of the living conditions of the population and of their enjoyment of social and economic rights.

The Government shall be in contact with Cuban peaceful dissidence as it has done so far. In this sense, the Government has been following – and continues to follow –, with the keenest interest, civic initiatives like the Varela Project presented by the Christian Liberation Movement, especially when their aim is to foster changes in the Regime by using the legal channels provided by Cuban Law, including their Constitution”.

(*BOCG-Congreso D*, IX Leg., No. 147, pp. 719–720).

c) Non-discrimination

On 24 June 2009, the Government replied to a question posed before the Senate regarding equality policies:

“By means of the Community framework provided by the inauguration of the renewed social agenda as from 2 July 2008, and through the implementation of the Commission’s programme to foster employment and social solidarity (PROGRESS) for the period 2007–2013, it is aimed to support the effective

application of the principle of non-discrimination and to promote its incorporation into all European Union policies.

Within this Community framework, the Ministry of Equality shall carry out a number of activities, including the following:

- Encouragement for the proposal for a Council Directive implementing the Principle of Equality of Treatment of Persons Irrespective of Religion or Belief, Disability, Age or Sexual Orientation.

The Ministry of Equality has initiated contacts with the forthcoming Swedish Presidency with the aim to reactivate that proposal with a view to the Spanish Presidency in the first semester of 2010.

- Effective implementation of the existing legislative framework, with the cooperation of all actors involved. The Council for Equal Treatment and Non-Discrimination of Persons on the grounds of their Racial or Ethnic Origins became operational in 2009 with the publication, on 8 January 2009, of the Ministerial Decree announcing the entities selected to become members of the Council, in compliance with Directive 2000/43.

- Implementation of initiatives to stimulate the management of diversity in the business field, through the challenge of promoting implementation of the 'Diversity Charter' in the sphere of public administration, a Community initiative aimed at informing, raising awareness and encouraging the creation of a Spanish social and work environment with room for diversity.

- Finally, the Ministry of Equality is working to encourage the transversal application of the principle of equal treatment and opportunities and the elimination of all kinds of discrimination against persons on the grounds of sex, racial or ethnic origins, religion or ideology, sexual orientation, age or any other personal or social conditions or circumstances. To this end, we are preparing a general or integral legislative initiative for Equal Treatment to guarantee the right of all persons not to suffer discrimination. The future Act is intended to improve protection and assistance for the victims of discrimination, bringing us into line with the Community legislative framework on the matter".

(*BOCG-Senado I*, IX Leg., No. 287, pp. 158–159).

d) Disabled Persons

Note: See V.3.b) *Agreements*

3. Free Movement of Capital and Freedom of Establishment

In reply to a senator's question on the scope of the reduction of competences to be carried out by the Government in the National Energy Commission (NEC) pursuant to the Judgment by the Court of Justice of the European Union, on 5 May 2009, the Government stated that:

"On 17 July 2008, the Court of Justice of the European Communities delivered Judgment CJEC/2008/174 declaring that part of the present wording of 'Function 14' of the National Energy Commission as set out in [Spanish] Royal

Decree-Law 4/2006 is in contravention of Community Law and could affect the free movement of capital and freedom of establishment.

However, the Judgment also implies that a mechanism of administrative intervention prior to merger operations to safeguard the security of supply is legitimate and possible within a broader conception of national security.

The Government accepts the judgment and shall formally comply with it by repealing the provision declared illegal by the Judgment, but it shall not renounce to a means of control which is proportionate and compatible with the principles of the EU Treaty”.

(*BOCG-Senado I*, IX Leg., No. 240, p. 27).

4. Cohesion Funds

On 29 December 2008, in reply to a question tabled by a senator as to the amount to be received by Spain from the Cohesion Fund from 2007 to 2013 and its subsequent distribution, the Government explained that:

“The amount to be received by the Spanish State from the Cohesion Fund was determined by European Council Agreement of 15 and 16 December 2005. The latter establishes the Financial Framework of the European Union for the 2007–2013 period, and it is set out in the Operational Programme ‘Cohesion Fund-ERDF’ for the 2007–2013 period, approved by European Commission Decision C/2007/6315 of 7 December 2007. According to this Operational Programme, the maximum amount of assistance from the Cohesion Fund to be granted within the Operational Programme framework is € 3,543,213,008.

– According to the said Operational Programme, the actions of the Cohesion Fund in the 2007–2013 period are organised around three priority axes: Trans-European Transport Networks, Environment and Sustainable Development, and Technical Assistance. In addition, the Operational Programme includes two further axes under the aegis of the European Regional Development Fund.

The maximum amount of assistance granted by the Cohesion Fund for the TEN-T axis is € 1,597,905,643, and the maximum granted for the Environment and Sustainable Development axis is €1,883,822,810.

The Operational Programme was drawn up with the participation, consultation and input of several institutions.

(...)

– During the programming period the bodies of the General State Administration with competences in the management and implementation of Community Funds furnished detailed information about the sectoral strategy and policy for coming years. This information is necessary to define the general strategy for the National Strategic Reference Framework, and also the preferential lines of financing action of the Cohesion Fund’s Operational Programme.

One important factor in defining the strategy and preferential lines of action for this programming period has been that the financing that Spain receives from the Cohesion Fund for the period 2007–2013 has been significantly reduced and is now 74% inferior to the one in the preceding period. The reason for

this reduction is that Spain receives this assistance on an interim basis because its Per Capita Income amounts to 90% of the EU average but is inferior to the 90% of the EU-15 average. This drop in the amount from the Fund has necessitated a high degree of concentration of actions and the priority lines had to be reduced for the continuation of projects commenced in the preceding period.

However, the following projects are planned in the Autonomous Community of Galicia within the framework of the Operational Programme:

- High Speed Line giving access to Galicia. Section Ourense-Santiago de Compostela. Platform. With a cost up to 351 million euro.
- New Port Facilities in Punta Langosteira. Phase 2, with a cost up to 133.5 million euro.
- Sanitation for Vigo, with a cost up to 160 million euro.

– The Cohesion Fund in the Environment and Sustainable Development axis (CF) has been distributed among the various public administrations taking into account phasing-out and phasing-in regions whose funding in the new period has fallen by 60% with the loss of this compensation. All of them are Autonomous Communities with a per capita gross domestic product below the European Union and the Spanish average. The rest of the Cohesion Fund has been allocated to the Ministry of Environmental, Rural and Marine Affairs to finance part of its sectoral investment at its discretion and to some municipal funding.

The distribution of the maximum amounts of assistance by administrations in axis 2, Environment and Sustainable Development (CF), can be seen in the following tables:

Table 1: Distribution of Axis 2 Cohesion Fund by Type of Beneficiary Administration

State General Administration	€ 977,848,395.95
Autonomous Communities	€ 562,203,030.46
Local Authorities	€ 343,771,384.07

Table 2: Distribution of Axis 2 Cohesion Fund by Autonomous Communities

Government of Castile and Leon	€ 190,074,299.04
Region of Murcia	€ 182,892,224.96
Government of Andalusia	€ 106,312,743.53
Principality of Asturias	€ 60,136,501.39
Autonomous City of Ceuta	€ 12,156,306.01
Autonomous City of Melilla	€ 10,630,955.53

– Unlike the Structural Funds (European Regional Development Fund and European Social Fund), the Cohesion Fund is national instead of regional. Assistance to Member States whose Gross National Income (GNI) per capita is inferior to 90 % of the GNI of the EU-25, provided that they have a programme

aimed at achieving the economic convergence conditions mentioned in Article 104 of the Treaty.

The Cohesion Fund Operational Programme, which sets out the strategy and describes the actions and the funding allocations for them, was approved on 7 December 2007 by European Commission Decision C/2007/6315. Any proposal to modify the content of that Decision shall be examined and approved by the Operational Programme Monitoring Committee, which is made up of representatives of the European Commission, the Ministry of Economy and Finance, the Autonomous Communities, local authorities and other entities or groups affected by the programme, such as environmental or gender equality authorities, representative associations, economic and social partners, etc. At present, there are no plans to modify the distribution among regions and intermediate bodies.

Although the Cohesion Fund is national, its management includes bodies not only from the State General Administration but also from the Autonomous Communities and Local Corporations”.

(*BOCG-Senado I*, IX Leg., No. 155, pp. 14–16).

5. Aviation Safety

On 21 July 2009, in reply to a parliamentary question on measures taken within the framework of the EU to improve aviation safety, the Government conveyed that:

“The Spanish Government supports increasing ‘Europeanisation’ of the control of aviation safety and the EU’s status as the institution that coordinates and provides common standards to achieve more effective safety when travelling by air.

Since 2002 the European Aviation Safety Agency (EASA) has been discharging functions such as certifying what models of aircraft may fly in European air space, conducting audits to guarantee aviation safety in the Member States, or prohibiting companies that cannot fully guarantee safety from flying.

The EASA is working to expand its competences with the support of the Member States, including Spain. Spain takes over the European presidency in the first half of 2010, and safety will be the cornerstone of aviation regulation. We seek to reform safety protocols when accidents occur and to promote stricter regulations with common protocols for all the Member States”.

(*BOCG-Congreso D*, IX Leg., No. 262, p. 444).

6. Nuclear Safety

In her appearance before Congress’ Industry, Trade and Tourism Commistee, on 2 December 2009, the president of the Nuclear Safety Council stated that:

“(...) On 25 June last the European Council approved a new Community directive establishing the obligations of the twenty-seven European Union countries as regards nuclear regulation and safety. This directive obliges all Member States, including the newer members, which... have had to close down Soviet

RMBK-type reactors... Let me highlight three aspects of this directive. The first is that it defines and characterises the regulatory authority; the second is that Article 6 and the definitions in Article 3 state the obligations upon undertakings possessing licences to operate nuclear facilities; and the third is that Article 8 legislates on transparency and the obligation for regulatory authorities to inform society. Spain is a step ahead in that our law already incorporates this requirement, in which there is room for improvement but which was in the law that you changed in 2007. I do not think that transposing this directive will be a problem. As you know, the solidity and the advanced nature of the Spanish regulatory system have been highlighted by the International Energy Agency, an OECD body, and by the International Atomic Energy Agency. But even so, there are many aspects that we can improve”.

(DSC-Comisiones, IX Leg. No. 433, p. 7).

7. Social Security

On 11 May 2009, in response to a parliamentary question on the frequency with which the Government reviews those agreements with other EU countries that cover the health care of their inhabitants in our public health centres, the Government explained that:

“Reimbursement of the costs of health care provided in Spain to citizens of other European Union Member States is not governed by conventions between States but by the European Coordination Regulations on Social Security.

This coordination is governed by Council Regulation (EEC) No. 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community and Council Regulation (EEC) No. 574/72 of 21 March 1972 fixing the procedure for implementing it.

Regulation (EEC) No. 1408/71 has since been amended by Regulation (EC) 631/2004 of the European Parliament and of the Council of 31 March 2004, published in the *Official Journal of the European Union* of 6 April 2004, whose objectives focus on harmonisation of rights to health care during temporary stays in another Member State and simplification of the procedures required to facilitate introduction of the health card.

The Regulations contemplate two situations:

- Patients on a temporary stay
- Patients on a prolonged stay or resident

Patients on a temporary stay are billed for the actual cost at the applicable rates approved by each Autonomous Community and published in their Public Price Decrees. Invoices are issued in the care centres of the Health Service concerned and are forwarded to the Provincial Offices of the National Institute of Social Security for recognition, processing and subsequent forwarding to Central Services. It is the latter that submits invoices to the patient's country of origin.

In the case of resident patients, a quota is invoiced for each resident authorised by the E-121 Document from the country of origin. This document entitles the holder to registration (as a pensioner) with Spanish Social Security and to be issued an individual health card in the same conditions as nationals.

The Directorate-General of Economic Planning for Social Security annually calculates an average cost which is submitted to the Audit Board for approval within the framework of the Administrative Commission on Social Security for Migrant Workers. The aggregate monthly quota approved by the Audit Board in Brussels is published in the *Official Journal of the European Communities* for each country, year and group”.

(*BOCG-Senado I*, IX Leg., No. 247, pp. 59–60).

8. Ultra-Peripheral Regions

a) *Canary Islands*

In reply to a question tabled by a senator on the measures to be envisaged by the Government during the Spanish Presidency in order to boost the ultra-peripheral regions and take advantage of the geostrategic position of the Autonomous Community of the Canary Islands linking Europe and Africa, the Minister of Foreign Affairs and Cooperation made the following statement before the Senate, on 17 November 2009:

“...the Government is well aware of the uniqueness of the Canary Islands owing to its position in the mid-Atlantic and the problems posed by its situation on Europe’s southern border facing the African continent.

The Government’s initiatives to deal with this situation, to cite only a few, have ranged from the recent first Canary Islands Plan approved by the Cabinet at Las Palmas de Gran Canaria, which means a whole set of measures and actions with investment totalling approximately 25,000 million euro from now until 2020, to the Security Plan for the Canary Islands – or in my own field as Minister of Foreign Affairs, Africa Plan, which recognises the essential role of the Canary Islands in our foreign policy in Africa; the creation of Africa House in the Canary Islands, from which numerous initiatives have issued relating to the African continent; and above all the forthcoming Spain-Economic Community of West African States (ECOWAS) Summit, the second to be held since Spain initiated these relations with Africa, to take place on Gran Canaria in 2010.

In this same context the Canary Islands are the site of the Spanish Ultra-peripheral Affairs Office, which was officially inaugurated in July this year and employs a functionary of the European Commission. There are few offices and few functionaries posted abroad, and one of them is in the Canary Islands, precisely to try and keep abreast of ultra-peripheral region affairs, for which the Ministry of Foreign Affairs and Cooperation is responsible.

... during the Spanish Presidency Las Palmas will in fact be the venue for a meeting between Spain, France and Portugal on ultra-peripheral regions, a matter which I shall deal with in more detail later on.

But more particularly, the measures that the Government intends to take in favour of the Canary Islands during its Presidency must be seen in the context of the latest communication from the European Commission on *'The Ultra-peripheral Regions, an Asset for Europe'* of October 2008, to whose drafting Spain's contribution was decisive. That is...the axis around which the debate over a renewed strategy in favour of the ultra-peripheral regions revolves – a debate that Spain initiated along with France and Portugal and in which we intend to make concrete proposals during our Presidency of the European Union...the elements of ultra-peripheral strategy currently in effect revolve around three axes: first, reduction of the accessibility deficit; second, increased competitiveness; and third, boosting of regional investment. The pertinence of this approach, mapped out by the Commission in 2004, was confirmed and reinforced in 2007 by a new communication which also dealt with the need to complete the three axes by launching a wide-ranging debate on four priority issues in European agendas which present particular challenges to the ultra-peripheral regions both from the standpoint of the difficulties they pose and the opportunities they afford – namely climate change, maritime policy, agriculture, demographic change and migratory flows.

(...)

Most of the actions are based on the conduct of surveys aimed at achieving a clear understanding of the impact of some phenomena on the economic and social cohesion of the ultra-peripheral regions. Only some of the proposals are more concrete, for example the one to do with aids for maritime transport, which is clearly aimed at reinforcing the regional integration of ultra-peripheral regions. In any case, during the period 2007–2013 this package of measures will coexist with the ones being implemented specifically in the Canary Islands because of its status as an ultra-peripheral region, which are structured around the axes I mentioned before – accessibility, competitiveness and regional integration.

Therefore...the geostrategic situation of the Canary Islands has been fully recognised within the Community framework since 2004 and is one of the three pillars of the European Union's strategy for the more remote regions. The integration of the Canary Islands in its geographical surroundings is being pursued through what is called the Wider Neighbourhood plan... The aim of Wider Neighbourhood is to integrate the ultra-peripheral regions in their socio-economic and cultural milieu, reducing the barriers that hinder exchanges in the geographic area, which is very remote from the European continent but very close to the ACP countries. There is no specific budget for Wider Neighbourhood; it is based on the most efficient possible use of existing Community instruments, particularly transnational and cross-border cooperation, commercial exchange and customs measures.

To reinforce transnational and cross-border cooperation in favour of Wider Neighbourhood, two important elements have been introduced into the European Territorial Cooperation objective of cohesion policy for the period 2007–2013; first, derogation of the territorial rules of eligibility based on Article 299(2) of the treaty, whereunder it is possible to use ERDF funds to finance cooperation

projects in non-Community territory as long as the projects thus financed benefit the ultra-peripheral regions; and second, the possibility of coordinating the programming and implementation of ERDF cooperation programmes with indicative programmes financed with the EDF – that is coordination between the EDF and the ERDF – and the regions of Madeira, the Azores and the Canary Islands make up the transnational cooperation area known as Macaronesia.

The Macaronesia 2007–2013 cooperation programme is structured around three strategic priorities: first, promotion of research, technological development, innovation and the information society; second, environmental management and prevention of natural risks; and third, cooperation with third countries and structuring of the Wider Neighbourhood plan. With an ERDF co-financing ratio of 85%, the latest financial chart of Madeira, the Azores and the Canary Islands 2007–2013 approved by the Commission envisages a total budget for the axis of a little over 28 million euro, with an ERDF contribution of 24 million euro.

The general objectives of Axis 3 are firstly to consolidate the experience acquired in the period 2000–2006, in which cooperation projects were carried out with third countries, co-financed by the ERDF through the Interreg III B Azores, Canary Islands, Madeira Programme; and secondly to achieve progress in that cooperation in a manner consistent with the Commission's new guidelines – that is, incorporating the principles of Wider Neighbourhood, which means that the specific objectives of the axis will be: one, to promote the development of a common area of growth and economic, social and cultural integration between the ultra-peripheral regions of Macaronesia and neighbouring third countries by means of cooperation actions that are mutually beneficial; two, to foster the establishment of stable ties of institutional cooperation; three, to serve as a pilot experiment in territorial cooperation between the European Union and third countries through the establishment of operational formulas for coordination of EDF and ERDF funds; and four, to reinforce the role of the ultra-peripheral regions as a platform for territorial cooperation between the European Union and the neighbouring countries.

(...).

It is also worth remembering the commitment to amending the Community guidelines on State aids to maritime transport in 2011 for the purpose of authorising the grant of aids for the start-up of sea lines between the ultra-peripheral regions and third countries. In any case, as far as air connections are concerned the guidelines on State aids in the air transport sector take account of the particular situation of the Canary Islands where they provide that the start-up of routes departing from the islands may qualify for compatibility criteria that are more flexible in terms of strictness and duration, and that the Commission will raise no objections to such aids where they are intended for routes linking the ultra-peripheral regions with neighbouring third countries. That then is the framework for the period 2007–2013, and the Spanish Presidency will be working specifically to present the Commission with options to deal with the difficulties encountered in the construction of the Wider Neighbourhood. The possibility of creating a single financial instrument or modifying the limit set for

extraterritoriality by the ERDF are interesting options that may be considered for negotiating the period starting in 2014. To that end the first opportunity and the first priority of our Presidency in connection with the ultra-peripheral regions is to agree on a common memorandum among the three States and the seven ultra-peripheral regions that sets targets and makes concrete proposals within the different Community policies for the next period of financial perspectives. It is due to be signed at the meeting I mentioned, which is scheduled for 7 May in Las Palmas...".

(*DSS-P*, IX Leg., No. 59, pp. 2888–2890).

9. Official Languages

On 3 March 2009, in response to a parliamentary question regarding official recognition and the possibility of using Catalan, Gallego and Basque in the CJEC and the Court of Auditors, the Government stated that:

"The agreement between the Kingdom of Spain and the Court of Justice of the European Communities was signed on 27 April 2009. In the case of the Agreement with the Court of Auditors of the European Union, a draft agreement has been on the table since 2005 but, for the moment, there has been no progress in the negotiations to sign it. Nonetheless, the Government continues to maintain a constructive dialogue with the Court of Auditors in order to move forward in the use of co-official languages in the Court".

(*BOCG-Congreso D*, IX Leg., No. 214, p. 107).

On 20 October 2009, before the Senate's Plenary Session, the Minister of Foreign Affairs stated the following on the use of the co-official languages recognised by the Spanish Constitution in European institutions:

"...in compliance with Article 3 of the Spanish Constitution and in recognition of a sentiment and an aspiration that are shared by the Autonomous Communities for acceptance of the co-official languages alongside Castilian by European institutions, on 13 December 2004 the Government presented a memorandum of this proposal to the European Union.

Following long and complex negotiations, on 13 June 2005 the General Affairs Council ... approved a reform of the European Union's linguistic rules which, although not going as far ... as the Spanish Government had asked – we were asking for an amendment to the linguistic rules – we did secure some conclusions from the Council, which made it possible to start negotiations with each of the European Union's institutions.

On that basis we have been negotiating various administrative agreements. At this time... we have reached agreements with the Council on 7 November 2005, with the Regions Committee on 16 November 2005, with the European Commission on 21 December 2005, with the European Economic and Social Committee on 7 July 2006, with the European Ombudsman on 30 November 2006, and with the Court of Justice on 27 April 2009. All these agreements are in force, and according to them citizens may address these institutions and

bodies in any of the languages that have official status in Spain under Spanish law and may receive a reply in the same language.

In the case of the Court of Justice the agreement stipulates that it does not apply to jurisdictional issues or issues relating to the applicability of a law.

On the other hand, there is still work to be done in the European Parliament. At a meeting on 3 July 2006 the Bureau of the European Parliament adopted a decision making it possible to permit the use of official Spanish languages other than Castilian in its communications with citizens, so that the Parliament's translation services can provide the translations necessary for it to reply in the language of the original communication without the need to draw up an administrative agreement between the Parliament and the Kingdom of Spain.

...we know that there is still some way to go and both the Ministry and the Secretary of State for European Affairs will keep on trying in the forthcoming negotiations”.

(*DSS-P*, IX, Leg., No. 55, p. 2621).

10. Cross-border Cooperation

On 21 July 2009 in response to a question from a deputy on the actions proposed to facilitate relations and exchanges between territories that share the same language over internal trans-boundary lines in the EU, the Government stated that:

“The fact of boundary-crossing languages is only one of the many reasons we could cite for promoting the desirability of cross-border cooperation between territories situated on either side of any of the national borders between European Union Member States.

The Government fully accepts this view and during the Spanish Presidency of the Council of the European Union it will continue to promote such cross-border cooperation, as it has been doing until now.

In this connection I would like specially to mention the European Groupings of Territorial Cooperation (EGTCs) created by Regulation (EC) No 1082/2006 of the Parliament and of the Council of 5 July 2006, which was implemented in Spain by Royal Decree 37/2008 of 18 January 2008. Under this legislation the Autonomous Community of Catalonia, along with the Balearic Islands and several French departments, is following the necessary procedures for the constitution of an EGTC, to be called ‘Mediterranean Pyrenees’, which will undoubtedly be an ideal vehicle through which to intensify these cross-border cooperative links”.

(*BOCG-Congreso D*, IX Leg., No.262, p. 479).

11. Common Agricultural Policy

Appearing on 8 June 2009 to report on the prospects and the factors affecting the future of the CAP, the Secretary of State for Rural Affairs and Water stated that:

“You are all very familiar...with the situation as it is: the latest reform of the CAP and the consolidation of a level of aids which in the case of Spain come to almost 7000 million euro for the first and second pillars of the CAP, for a sector that generates around 5000 million euro in agricultural production and 84,000–85,0000 million in the agri-food sector...a sector that is capable of generating employment, as you well know, and capable of holding out in difficult situations like the present world-wide economic crisis with much more stably than other sectors in terms of maintenance of undertakings, exports, employment...
(...)

The real debate...will be around the financial prospects for 2014–2020...Spain is the second largest recipient of common agricultural policy funds in absolute terms, after France, and of course along with the UK, Germany, Italy and the Netherlands we are, as I say, the major recipients. Therefore, one of the first questions that arises is the likelihood of the new partners wanting to use this budget. And secondly, in an economic situation like the present one and with existing income levels, someone will foreseeably seek to cut down, or at least freeze the cost. We must therefore place particular stress on the justification and maintenance of this policy.

(...”).

(*DSS-C*, IX Leg., No.164, pp. 4–6)

On 13 October 2009, in her appearance before the joint Commission of the Parliament to report on the positions, strategies and alliances with countries that Spain would be supporting in connection with the reform of the CAP, the Minister of Environmental, Rural and Marine Development stated that:

“I would like to start off with some information on the latest review of Community agricultural policy, known as the CAP health check-up, and the model for its application in Spain.

...Last year a review was proposed, known...as a health check-up, but it was not a thorough-going reform of the CAP but a series of adjustments for the period 2009–2013, contributing to the debate on the future challenges facing agriculture. From the outset Spain spoke in favour of the need to move towards a policy that is easy to implement and to explain, which addresses the concern about food, management of the markets and the need for a solid CAP, enabling producers to operate in a stable and secure framework. The CAP health check-up focused on a series of goals: first, simplification of the single-payment scheme; second, a review of market instruments; and third, the response to new challenges. With the political agreement reached at the Council of Ministers of Agriculture of the European Union on 20 November, it was clear that the CAP was in good health...the aids that the European Union allocates to agriculture total more than 45,000 million euro for the European Union as a whole, of which almost 6,000 million comes to Spain, but solely for agriculture; it does not cover activities relating to rural development or aimed at financing rural development programmes. Therefore, in that review...as well as consolidating the CAP all the Member States have managed to secure the use of budgetary residues

that had not previously been taken up...the differentials that are generated are paid to the Member States, and in this case Spain will receive an additional amount of over 144 million euro for next year. Also...the European Union will be more comfortably placed for the close of the Doha round of World Trade Organisation negotiations...from Spain's point of view the agreement broadly meets the goals set out by the Government for the health check-up, so that it can be properly adapted to the peculiarities of our agriculture. In addition, the review reflects the suggestions and goals set out in the declaration of the sub-committee set up to define Spain's position regarding the common agricultural policy and approved by the Congress Environment, Agriculture and Fisheries Commission in October 2008.

...And precisely in that 2003 reform the chief novelty that it introduced was what we know as aid decoupling, meaning that farmers can receive a given amount of money irrespective of what they are able to produce. These aids that were paid were incorporated into what are called single farm payments, which were derived from the amounts paid earlier and were closely related to the activity or the type of production carried on. That trend of decoupling was continued in the health check-up. .. In Spain we argued that this could not be done on a generalised basis, and that we would have to conduct an analysis – as we have done – on a case-by-case basis and adapt it to the reality in our country. That we have also achieved. For instance, in some sectors such as arable crops and olive it was deemed best to decouple immediately, unlike other crops such as nuts, dried forage, rice, protein crops and seeds where we secured a transitional period with coupled aid until 2012. This is a way of acknowledging the diversity of situations existing in European agriculture, as Spain had been calling for. This health check-up has also included a review of an article, formerly known as Article 69, which provided us with an instrument of flexibility to implement certain active policies to favour certain agricultural activities or carry out sectoral adjustments. In other words, the money available to us...enabled us to help some activities or some sectors that were experiencing special difficulties. This is maintained...but it further allows us a slightly larger margin than we had before. When this health check-up first began, in Spain we were also rather concerned about how agricultural insurance would be treated... Spain has an agricultural insurance system that has been operating for more than thirty years and is recognised nowadays as one of the best in the world. We successfully achieved our demands, in that the check-up confirmed all the guarantees that we derive from agricultural insurance, and moreover these were found to be perfectly compatible not only with the Spanish system but also with the general agricultural policy. Another element, and one that is included in one of those blocks of objectives that were set out in the health check-up, is possession of a safety net...agricultural production or livestock production is often affected by weather conditions, which sometimes are adverse and sometimes permit higher output. It is practically impossible to achieve an exact balance between the production we have and the demand...for obvious reasons. It is therefore essential – and we have consistently argued this in Spain

– to have a safety net so that we can activate certain instruments to adjust the balance between supply and demand, but not only when we are talking about amounts but also when we are talking about prices, and so that we can provide producers and consumers with a degree of stability. This has been maintained as we expected. There are a number of other aspects which are perhaps more conjunctural but are of considerable importance to us...some months ago now we were feeling very severe pressure on cereal prices and scarcity of these products on the international markets. At that time we asked the European Union to eliminate some of the mandatory instruments that we had in place, such as obligatory removal of arable crops, which forced us to produce less than what we could potentially produce in the context of the European Union, and of course in Spain. That measure was adopted, but only provisionally, so that we could actually produce a little more and respond to a very sharp rise in cereal prices on the international markets. This health check-up has incorporated that measure definitively, so that there are now no limitations on the capacity of our producers to react to certain signs of volatility that can appear in the markets. Another of the issues addressed in this health check-up was the dairy sector...when the review took place we were not in the difficult situation that the dairy sector is going through today. At that time it seemed reasonable to keep up the resolutions that had been adopted in 2003, but also to work for what we have come to call a soft landing... In 2003 it was agreed that the milk quotas existing at a European level would be eliminated in 2015 and we would move from the situation there is now, where quotas and the output of every European producer are limited, to one of total liberalisation...it is necessary to start taking certain steps to enable producers to gradually adapt without excessive investment, or equally without major changes in how they have to deal with the market. These mechanisms have been taken into account; we have managed to arrange a soft landing for the dairy sector, but at the same time the mechanisms of intervention in the sector have remained in place... Another issue...was modulation...modulation consists in deducting a given percentage of the aids received by farmers and allocating it to other measures or another type of aids included in rural development. This modulation was also started up in 2003, but the review carried out in last year's health check-up proposed raising it to 8 per cent. From our point of view that was a very high percentage and we felt bound to try and get it reduced to 5 per cent. And that we achieved. With this amount we believe we have cash available to address the new challenges that have been identified, such as climate change, conservation of biodiversity, efficient water management or bioenergy, but making it compatible with the aids that farmers receive and without this posing an additional problem because of the amounts that are received.

(...)

...Tying in with the new challenges that agriculture has to face and that have been identified in this health check-up, there was one issue that caused us some concern. As you know, most of the aids are co-financed by the European Union and the Member States. When we talk about co-financing by the Member

States, we differentiate between convergent regions and non-convergent regions. Initially, in this reform that was envisaged the amounts to be contributed by the Member States or Autonomous Communities... were very large and the European Union's part was much smaller. In the end, the situation was reversed so that, taking the original proposal, the increment would be 25 per cent higher in the case of non-convergence and a differential of 75 to 90 per cent in all other cases... this CAP health check-up definitively completed the process started in 2003. Once it was approved in the context of the European Union... in Spain we began to organise meetings with each of the Autonomous Communities, and its implementation was decided at a sectoral conference held in Burgos in April. I would like to stress that that sectoral conference approved the decision to apply the health check-up to the Autonomous Communities unanimously in each one.

(...)"

(*DSCG-C*, IX Leg., No. 78, pp. 2–6).

On 28 August 2009, the Government replied the following to a question raised by a Congress deputy regarding the reform of the CAP proposed by the European Commission:

"The European Union (EU) Agriculture and Fisheries Council held on 18, 19 and 20 November 2008 reached a political agreement on the set of proposals for amendments to the regulations affecting the Health check-up. The Agriculture and Fisheries Council approved the definitive legislative documents on 19 January 2009.

(...)

The objectives of this review were firstly to evaluate the implementation of the 2003 reform of the CAP, and secondly to make the necessary adjustments to the reform process to simplify this policy so that it can take advantage of the new market opportunities and address the new challenges of climate change, water management, renewable energies, biodiversity, innovation and the dairy sector.

(...)

From Spain's point of view, the agreement broadly meets the goals pursued by the Spanish Government for the "Health Check-up", both from a general perspective of the CAP and in certain conjunctural adjustments to allow for better adaptation to the peculiarities of Spanish agriculture.

The Spanish model of implementation of the "Health Check-up" adjustments must be a derivative of the general model for European agriculture defined in the CAP. That is, a sustainable, productive agriculture that has an adequate technical base and is competitive, environmentally friendly and tends to integrate farmers in the economic and social fabric of the rural world.

This model is only a part of the national agricultural policy, which is complemented by the action pursued with the national budget and that of the Autonomous Communities within the general margin that the CAP allows the Member States.

There are a number of peculiar elements specific to the Spanish model:

- It facilitates a market orientation for most farms and sectors in Spain, especially the more dynamic ones.
- It assures the maintenance of productive activity in areas with natural handicaps or environmental problems, taking into account economically vulnerable types of agriculture or holdings at risk of abandonment.
- It maintains productive activity in intensive sectors which particularly affect the economy and employment in the regions where they are established.
- It goes hand-in-hand with adjustment in sectors hit by crisis or with structural problems and introduces the appropriate agricultural policy instruments to deal with them.
- It encourages the allocation of new modulation funds to farmers as a stimulus or compensation for activities which not only address and satisfy the requirements laid down for the new challenges contemplated in the “Health Check-up” but also meet sectoral production targets.
- It guarantees the maximum possible utilisation of resources from the European Agricultural Guarantee Fund (EAGF).

Thus, the opportunity has been taken to review and simplify the CAP application model, but without the need to modify the model chosen by the Member States – in Spain’s case the historical model based on the references for aids received by farmers in certain reference periods, and continuity has been achieved in the general system of aids to the Spanish countryside, facilitating their management by farmers and lending stability to farm incomes”.

(*BOCG-Congreso D*, IX Leg., No. 271, pp. 77–79).

12. External Relations

a) Mediterranean

In his intervention before the Senate’s Foreign Affairs Committee, on 23 April 2009, to report on the balance and outlook for Spanish foreign policy, the Minister of Foreign Affairs and Cooperation declared that:

“The construction of a sphere of real and effective cooperation in the Maghreb is a priority for Spain and should also be so for the European Union as a whole and for its Maghrebi partners as well. The Maghreb will therefore be one of the priorities of the Spanish Presidency of the European Union in 2010. It is important to remember that Spain has been the main driving force in the European Union for the granting of advanced status to Morocco, to consolidate and definitively pin down its commitment to the process of reforms and internal modernisation through its strategic partnership with Europe. Spain must foster or follow up processes to enhance bilateral relations between the European Union and the five countries of the Maghreb: Algeria, Libya, Morocco, Mauritania and Tunisia. In this respect the question of the Western Sahara remains of capital importance...

...In July 2008, on the occasion of the Summit of Mediterranean Heads of State and Government, we launched the Union for the Mediterranean, an initiative that ties in with the Barcelona Process, moreover opening up a new institutional dimension and fostering cooperation in six priority areas: environment and decontamination, small and medium-sized enterprise, civil protection, energy, maritime transport and motorways, and education.

The Secretariat and our Presidency of the European Union merit separate mention. As to the Secretariat, we consider it a major success to have secured its location in Barcelona, for which we enjoyed the commitment and unstinting labour of the Government of Catalonia and Barcelona City Council. Barcelona thus reinforces its central place in the Mediterranean with an institution devoted to the identification of projects and the procurement and fostering of resources”.

(*DSS-Comisiones mixtas*, IX Leg., No. 137, p. 4).

13. European Economic Recovery Plan

Appearing on 25 March 2009 before the Congress in full session to report on the European Council held in Brussels on 19 and 20 March, the Prime Minister stated that:

“(...)

...in December 2008 the members of the Union agreed on the European Economic Recovery Plan, and now, at the latest Council, we approved the investment programme devised by the European Commission, and the contribution of the Union’s institutions to that recovery plan. Five thousand million euro of the Community budget for the period 2009 and 2010 will be devoted to financing projects of investment in energy and broadband infrastructures. These 5,000 million euro are to be put to the actions being undertaken by the European Investment Bank and advances on payments of structural funds, among other measures, so that the resources devoted by the European Union to economic recovery come to a total of 30,000 million euro. It is also important to note that for those member countries that have been especially hard hit by the crisis, the European Council has decided to double – from 25,000 to 50,000 million – the maximum limit of the European Union’s mechanism of financial assistance for the balance of payments. Of these 5,000 million, the energy projects approved for Spain take up a total of 340 million euro, which will mobilise an additional amount of private resources and will be allocated to three fundamental projects. Firstly, 225 million will be allocated to construction of the new electricity interconnection with France, which will double the existing interconnection capacity in the Central European electricity market and will significantly improve the security of supply in Catalonia. The total cost of the project will be shared equally between the French and Spanish system operators, so that the 112 million euro of the resources will be attributed to Spain and the same amount to France. Secondly, 45 million euro will be used to finance the project for a gas interconnection between Spain and France, a fundamental element in the gas transportation axis running from Africa through Spain and France. And lastly,

the third amount, of 180 million euro, will be allocated to construction of the experimental carbon capture plant at Compostilla in El Bierzo, León, which will enhance our capacity for clean use of a fossil energy source like coal, which is relatively abundant in Spain. This confirms that the Government's initiative creating the Energy City Foundation in 2006 as a national clean coal reference centre in Ponferrada, El Bierzo, was the right one.

(...)"

(DSC-P, IX Leg., No. 71, p. 6).

14. Spanish Presidency

a) Human Rights

On 19 May 2009 the Minister of Foreign Affairs replied to a parliamentary question in the Senate on the Government's proposal regarding the protection of human rights during the Spanish Presidency of the EU in these terms:

"Of course human rights are part of the transversal axis of all Spanish foreign policy action and... will be a priority during the Spanish Presidency of the European Union in the first half of 2010. There will be a variety of specific actions. First... the death penalty. The Government intends to lead European Union actions to garner the support of all the European countries for Europe to lead the abolition of the death penalty, or at least to achieve a moratorium on the death penalty in a period running up to 2015. We shall also be leading actions in another very important field – namely torture – promoting universal application of the various international treaties and agreements on the subject. There is a third topic – child soldiers. We shall be promoting universal ratification of the Convention on the Rights of the Child and the optional protocols thereto and we shall be pursuing the application of the recommendations of the Committee on the Rights of the Child, laying special emphasis on this subject within the framework of the dialogues on human rights that the European Union is carrying on with various continents or principal actors, be it Africa, China or any other major partner. Fifth action: persons with disabilities. We shall be supporting the elaboration of the Convention of the rights of persons with disabilities and an Optional Protocol thereto. Six: access to drinking water and sanitation. We hope to garner strong European support so as to achieve progress in this last goal, the initiative to improve access to drinking water. And it goes without saying, we shall be trying to persuade the United Nations Human Rights Council to improve the existing mechanisms, particularly universal periodic examination. But out of all these we shall have a priority of priorities, and that is gender equality between men and women, an element that the Spanish Presidency will be promoting.

Finally... when the Treaty of Lisbon comes into force, it will enable us to make that qualitative leap, that relationship between the Council of Europe and the European Council, promoting firm accession by the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

(...)"

(DSS-P, IX Leg., No. 39, p. 1751).

b) Budget

On 6 October 2009, the Secretary of State for the EU appeared before the Congress Foreign Affairs Commission to explain the Ministry of Foreign Affairs' budget for his department in the following terms:

"(...)

...I shall explain the part of the budget of the Ministry of Foreign Affairs allocated to the Secretary of State for the European Union... I shall talk about the ordinary part of the budget and the extraordinary part allocated to the Spanish Presidency of the European Union...and then also...the analysis of financial flows between Spain and the European Union in 2010, that is the income and expenditure deriving from the Community budget and the European Development Fund.

The 2010 budget for expenditure is in programme 142.B – which is called diplomatic action with the European Union – of the Ministry of Foreign Affairs and Cooperation, and it also includes the amounts corresponding to Spain's permanent representation to the European Union, the REPER, in Brussels, which is dependent administratively and financially on the Ministry of Foreign Affairs and Cooperation through the Office of the Secretary of State for the European Union.

The ordinary budget of the Secretary of State's office for 2010 is 8.38 million euro, not counting chapter 1 (personnel costs), which includes...the credits to the REPER and is only a small percentage of the total Ministry budget – 0.26 per cent to be precise. With this budget the Secretary of State for the European Union has to assist the Minister of Foreign Affairs and Cooperation in formulating and implementing Spain's foreign policy in the ambit of the European Union; and also, the Secretariat of State coordinates action in the ambit of the Union...of the General State Administration and the regional and local administrations; and it also coordinates action in the ambit of the European Union by the other top-level and executive organs of the Ministry. This is the ordinary budget of the Secretary of State's office for 2010.

...The extraordinary budget of the Ministry as a whole (...for the Presidency), the whole Ministry of Foreign Affairs and Cooperation, is 15.9 million euro. This then includes all requirements that are expected to arise in the management units controlled by the Ministry of Foreign Affairs and Cooperation for purposes of the Spanish Presidency – the ones most directly concerning the Ministry – and that means also including the offices of the Secretary of State for the European Union, the Secretary of State for Foreign Affairs, the SECI, the SEI, the Under-Secretary for Foreign Affairs, the Secretary-General for Consular and Migratory Affairs, the Directorate-General of External Communication...Included in that budget is the actual extraordinary budget...of the office of the Secretary of State for the European Union. Next year, the office of the Secretary of State for the

European Union will be administering an extraordinary budget of 5,067,250 euro for the Presidency. This sum is intended to cover various items...some as part of personnel costs (1,274,910) and some for current expenditure on goods and services (the remainder up to 5,067,250). This second part, of goods and services, is to cover journeys and sojourns that are essential for the Presidency... It also includes expenditure on the engagement of various specialised technical services, what are known as social expenses incurred in organising meetings on the Presidential agenda, and other expenses such as items relating to necessary communications, supplies and rentals during the course of the Presidency.

The second part of my address deals with financial flows between the European Union and Spain. Of course these financial flows are included in the European Union budget, and as you know the European Union's budget is structured in what is called a multi-annual financial framework, in this case from 2007 to 2013; there is a...multi-annual budget that is fixed or has a ceiling beyond which it cannot go, which is then subdivided into annual budgets which are discussed yearly by the European Parliament. At the moment the European Parliament is discussing this budget for 2010... It is the fourth budget...of a Union of Twenty-Seven, which of course is very different from the European Union as we saw it...when Spain last held the presidency of the Council, which was in 2002.

(...)

It is in this Union budget for 2010 that we have to place the aspect of financial flows in the budget between Spain and the European Union... Spain will continue to be a net recipient of European Union funds. In strictly monetary terms, in 2010 once again we shall be receiving more than we put into the budget. Our net financial balance...in 2010 will be 2,730.86 million euro in monetary terms, approximately 0.25 per cent of Spain's gross domestic product for 2010 and the largest net financial balance that Spain will have had with the European Union since 2005...

(...)

...I shall focus...on Spain's contribution to the Union budget and the funds that Spain will receive. Spain expects to contribute approximately 12,000 million euro to European Union own funds and around 218 million euro to the European Development Fund. Spain will do this by...contributing traditional own resources (1,600 million), VAT (1,600 million) and gross national income (9,000 million). In 2010 Spain will foreseeably receive 15,152 million euro from the Community budget, and hence there will be a surplus, a net receipt of funds. These transfers to Spain will come from the Agricultural Guarantee Fund (EAGF), the European Agricultural Fund for Rural Development (EAFRD), the European Fisheries Fund, and also from what are known as structural actions; from structural actions, which are structural funds and cohesion funds, Spain will receive 7,015 million euro, which is 42.6 per cent more than the previous year. These structural actions, as I said, are structural funds and cohesion funds. Briefly then, in 2010 Spain will have a positive financial balance with the European Union totalling 2,730.86 million euro, that is 2,153 million euro

more than the last balance forecast for the current year. This is a spectacular rise, reflecting an increase of 2,211 million euro in payments from the Community to Spain... The forecast for the following financial framework starting in 2014 shows Spain as a net contributor...".

(DSC-C, IX Leg., No. 372, pp. 21–23).

c) External Relations

In his appearance before Congress' Foreign Affairs Committee, on 22 December 2009, the Minister of Foreign Affairs and Cooperation stated that:

"(...)

...One of the four priorities of the Spanish Presidency is the promotion of Europe as a global actor in a multilateral world. This is...a goal reflecting political ambition, the ambition of a Presidency committed to Europe which will help to make the European Union's external action more effective and more visible and will underwrite the role of the European Union's new high representative for foreign and security policy, thus assuring consistency in the Union's external face...the aim is to arrive at a situation where Europe speaks with a single voice, thus putting more weight behind the defence of our interests and the promotion of our values.

The instruments for achieving this goal are supplied by the Treaty of Lisbon...the creation of a permanent president of the European Council and a high representative for the Foreign and Security Policy of the European Union, the vice-president of the Commission, are major developments, as is the European External Action Service, composed of representatives from the Commission, the Council and the Member States, which is intended to support the high representative and help consolidate the Union's international image as a genuine global actor...the Spanish Presidency will be cooperating closely with the high representative, with whom we have already been in contact several times to approve the decision necessary to effectively establish the service and put it into operation within the time limit specified by the European Council last October, that is by the end of April 2010. In the meantime the Spanish Presidency will assure the transition to the new design through its diplomatic network, which will continue to represent the European Union externally under the authority of the high representative until she decides to bring the new European External Service into operation in each case.

...During its presidency, Spain will have an especially packed agenda as regards external relations. As well as dealing with the CFSP and ESDP in response to existing and future crises, our Presidency, in close cooperation with the president of the European Council and the High Representative, will have to prepare and organise as many as fourteen summits of Heads of State and Government of the Union with its strategic partners and pursue an intensive agenda of development cooperation within the framework of the Millennium Goals.

...We shall be paying special attention to the Mediterranean and the Atlantic. We shall be responsible for organising the European Union–Latin America

& Caribbean summit, which will bring together a third of the United Nations member countries on Spanish soil. It is hoped that this summit, whose central topic will be innovation and technology for sustainable development and social integration, will produce a substantial step forward in Euro-Latin American partnership thanks to an ambitious plan of action, the approval of a facility for investment and the launching of the European Union/Latin America & Caribbean Foundation. The conclusion of the negotiations for a partnership agreement with Central America and the Andean countries and the resumption of negotiations with Mercosur are all priorities for Spain. Another key point in our agenda for the period is the summit with the United States in the spring. We have been working closely with the US Administration for some time to assure the success of this summit, from which both countries hope to see significant results as became clear in the Prime Minister's meeting with President Obama...

The summit with Canada will be an opportunity to further the new level of relations inaugurated with the start of negotiations for a new trade agreement. The Canadian Presidency of the G-8 in the first half of 2010 will undoubtedly make a difference in this respect. Also, it is a source of particular satisfaction to Spain to be able to organise the first European Union–Mexico summit since the approval of the strategic partnership with that country. This makes Mexico the second Latin American State, after Brazil, to be recognised as a privileged partner of the Union.

...In Spring we shall be holding a European Union–Russia summit at which Spain, as President of the Council, will be making every effort to promote the consolidation of a genuine strategic partnership between the European Union and the Russian Federation in which both sides have a lot to gain. Our action will be focused on the development of cooperation in the spheres of energy, security and facilitation of mobility. We shall be paying particular attention to the conclusion of negotiations for the new post European Union–Russia agreement. We shall seek to make progress in the field of energy and to encourage Russian participation in Eastern Partnership programmes. The Spanish Presidency will carry on the task of applying the road maps for the four common areas of the Union and Russia.

On the Mediterranean front... we shall be organising the second summit of Heads of State and Government of the European Union for the Mediterranean. The summit is intended to confirm that ambitious project with the approval of a work programme, start-up of the permanent secretariat in Barcelona and definition of new projects for this new stage in the process, which began in Barcelona in 1995 under the Spanish Presidency. Besides this one, we shall be holding the first European Union–Egypt summit. Our turn in the Presidency will also see the European Union–Morocco summit, the first that the Union has held with a southern Mediterranean partner, and the second – after South Africa – with an African partner. This summit marks the recognition of Morocco as an essential partner in Euro-Mediterranean cooperation and dialogue within the framework of advanced status.

I wish specifically to mention Africa, which has come to be a central pillar of our external action in the last few years...there are important dates planned, of which I shall highlight only two: the EU–African–Caribbean–Pacific States joint ministerial conference, at which we propose to ratify the second review of the Cotonou Convention and the European Union–Africa Troika, where looking forward to the summit we need to agree on the lines of the second Plan of Action with Africa and the structural changes in the eight European Union–Africa strategic partnerships. As well as promoting an integrated approach to Somalia, including the fight against piracy in neighbouring waters, our Presidency...will be paying special attention to Equatorial Guinea, to developments in Darfur and southern Sudan, Chad and the conflict in the Great Lakes, with particular attention to developments in the Democratic Republic of the Congo.

With regard to development cooperation, the Spanish Presidency will be arguing for the fulfilment of international commitments regarding the fight against hunger and poverty and regarding food security, quality of aid and the amount of resources committed, in line with the Millennium Development Goals and the objectives agreed in the European Consensus on Development of December 2005, with the specific aim of bringing the official development assistance of the European countries up to 0.56 per cent of GDP in 2010.

Another important aspect of our Presidency will be implementation of the European Union's counter-terrorism strategy and its strategy to combat radicalisation and recruitment. We shall be making a special effort in favour of the protection and promotion of human rights in this context and the situation of the victims of terrorism, but without ignoring other crucial areas such as the fight against climate change or human rights. In addition, the Spanish Presidency will be promoting the Alliance of Civilisations within the framework of the United Nations, at the same time pushing for its reform and strengthening as a universal international organisation.

...Under the Spanish Presidency, the European Union will be paying special attention to the pursuit of peace in the Near East, supporting efforts within the Quartet while pursuing measures of its own to help the countries involved to reach a fair and lasting solution to the Arab-Israeli conflict, on the basis of two States coexisting in peace and security. We shall also be devoting attention to the other parties in the process with a view to reaching a global solution to the Arab-Israeli conflict.

(...)"

(DSC-C, IX Leg., No. 456, pp. 2–5).

d) Area of Freedom, Security and Justice

In his appearance, on 16 November 2009, before the Parliamentary Commission for the European Union to report on the programme and priorities of the Spanish Presidency, the Minister of Justice stated that:

"(...)

...The Spanish Presidency will be the first to implement the third five-year programme 2010–2014 for the Area of Freedom, Security and Justice that the

European Council is due to approve in December, which we all know as the Stockholm programme.

(...)

...One point on which Spain has stood out since its accession to the European Union is its firm commitment to the construction of this Area of Freedom, Security and Justice, an area at the service of all citizens of Europe (...). Thus, our main lines of action are intended firstly to reinforce the protection of fundamental rights and to enhance the channels through which European citizens can exercise their rights without the hindrances that still persist owing to the diversity of laws and national practices. Secondly, we seek to improve the provision of services by the Administration of Justice Europe-wide. Thirdly, we aim to perfect the instruments available to effectively combat crime – especially terrorism and organised crime – but with the requisite legal guarantees in all cases. And finally, we seek progress in judicial and legal cooperation with third countries.

...Our activity will therefore be focused primarily on the following tasks: First, approval of the Stockholm programme's plan of action. This means drawing up a timetable for approval of the legislative proposals and the non-legislative initiatives envisaged for the period 2010–2014. To that end we shall be working on the basis of the project put forward by the Commission, with whose services we are already in contact, and we shall have to address and harmonise the positions of the other partners, without losing sight of the goal of drawing up a document setting out serious but feasible goals for that period. Second, we aim to improve the protection of fundamental rights; to that end we propose first and foremost to push for the European Union's definitive accession to the 1950 Rome Convention as provided in the Lisbon Treaty... We shall be working... to secure a mandate from the European Union to negotiate the requisite agreement with the Council of Europe. That agreement... must establish specific modalities for any participation by the European Union in the convention's control bodies or mechanisms to assure comprehensive regulation and provision for any appeals submitted by third States and any individual appeals, particularly against Member States or against the Union, or against both as the case may be.

...In order to speed up this process, we plan to hold a seminar in February, with the participation of representatives from the European Union and the Council of Europe. We believe it is essential to the consolidation of the fundamental rights and the freedoms of all citizens that Europe as an institution also be a member and be committed to the Rome Convention. We shall thus be working to extend the principle of mutual recognition, to facilitate the enforcement of court judgments, to harmonise the rules of conflict, and also to approximate legislations, both civil and criminal, in which respect, as I shall now try and explain in more detail, we propose to devote particular attention – for the first time in EU law – to victims.

On the criminal side, as well as taking up... the tasks yet to be formally adopted in the existing primary law on trafficking in human beings, the fight against sexual exploitation of minors and child pornography or the transfer of proceedings, we wish to move forward in the mechanism for harmonisation of

procedural guarantees in criminal cases... The next issues on the list are legal representation, communication with relatives, employers and consular authorities, and above all special guarantees for vulnerable persons. Once political agreement is reached on the first of these items, as I said...it will fall to the Spanish Presidency to move forward on everything to do with informing detainees of their rights. To do that, we hope to have the proposal – and so we have advised it – without delay.

Another of our Presidency's top priorities, again following the proposals of the Stockholm programme, is to place the victims at the centre of the stage... In fact this is the topic we have chosen for one of the debates at the informal council to be held in the city of Toledo in January. The intention of this choice is to provide ideas to inspire the Commission's upcoming presentation of a global instrument for the issue of victims which will enhance their status and also improve the existing compensation mechanisms.

...In exercise of the power to initiate legislation, which is reserved precisely for this sphere of JHA thanks to the terms of the Treaty on the Functioning of the European Union, we have already launched an initiative which we hope will be co-sponsored by other Member States so that it can be launched at European level – a normative initiative in which for the first time the Union will have a regulation that deals and concerns itself with the victims. To that end we have proposed a European protection order, the European initiative that we wish to set in motion under the Spanish Presidency. This order will particularly benefit the victims of gender or domestic violence, which it deals with extensively.

We see this future instrument – a directive in the terminology of Lisbon – as a measure of mutual recognition, whose purpose...is to extend penalties or precautionary measures in favour of a specific person beyond the jurisdiction of the authority that decreed it. We are working to secure this co-sponsorship and... the negotiations are going well...the success of this initiative rests upon our ability to overcome the hesitations caused by the technical difficulties sometimes produced by the diversity of responses, the diversity of means that each State possesses in Union territory to protect its victims...we have been canvassing intensely these last few days to explain to the various partners...the rationale behind the functioning of this European protection order; to try and find a common element, a lowest common denominator for everyone, but above all the political importance from the Union's standpoint of delivering to European citizens the message that through its institutions too, the protection that they enjoy in one State may be available to them in another, and hence the freedom to choose one's place of residence will never be constrained by considerations of personal safety.

On a different matter, within the field of criminal judicial cooperation, we are in favour of reinforcing the application of the principle of mutual recognition with regard to evidence in criminal procedure, through – in this case – the proposal for a European investigation order to replace the existing warrant of evidence, since we believe that this instrument, which is due to come into force in 2011...but as it is conceived at present it is only of marginal practical utility.

We should therefore be looking for a much more ambitious measure that does away with the dual criminality rule in order to have evidence that is valid in different forums, and above all that provides a limited and weighted number of grounds for rejection of requests sent out by the issuing authorities and sets a reasonable time limit for enforcement thereof...

On the civil side...within the JHA territory we shall be working first of all to conduct negotiations for the regulation of wills and succession, which is undoubtedly a fundamental issue for European citizens now residing in widely-differing territories and areas of the Union; this instrument, which is intended to establish criteria, above all regarding applicable legislation and recognition of judicial decisions, will not affect...the material regulation of these rights. Among other reasons, because in our country...civil citizenship is distinct from administrative citizenship; in addition to this citizenship, the Autonomous Communities have competences in respect of special civil law, and we share, if you like, the same problems as some other countries in the Union, particularly the United Kingdom, where status also varies depending on the rules of succession...

We hope – and we have so intimated to the Commission – that it will also be making a proposal regarding marital economic regimes in the first half of 2010. And as regards the regulation governing the law applicable to separation and divorce...we are awaiting the Commission's reply to the request for reinforced cooperation that has been made...by ten member countries of the European Union, of which I am happy to say ours is one. In response to the stalling – or attempted stalling – of so important a regulation for European citizens, Spain – like France and eight other countries – has activated the reinforced cooperation mechanism in order to carry forward a set of regulations that we believe is fundamental and should override the principle of unanimity.

The Spanish Presidency will also be seeking to make a decisive contribution to the debate in the run-up to the presentation of the proposal to review the regulation on recognition of civil and mercantile decisions...in respect of *non exequatur* – elimination of the *exequatur* procedure – always subject to the requisite guarantees throughout the territory of the Union...

The Spanish Presidency will also be striving to make progress in optimising the use of information and communications technologies in the sphere of the Administration of Justice, and likewise in the interconnection of public registers at the service of the public and of the legal profession throughout Europe. Last year we approved the strategy and the plan of action for electronic justice... Spain has been a pioneer in some of these projects, for instance the one on interconnection of registries of criminal records. We are also at the forefront as regards the electronic apostille, to the extent that our national project – the one approved for Spain – may serve as a model for Europe-wide application, also at the initiative of the Hague Convention.

During the Spanish Presidency we hope to be able to inaugurate the European electronic justice portal. This portal will provide information for citizens on legislation, access to European registries, access to registries of professionals and identification of professionals throughout the Union and legal professions

of widely-differing natures, and in a subsequent phase – which we wish also to define so that it can be activated as soon as possible – it will provide a means of on-line processing of certain procedures, simple ones at this stage but important, with cross-border elements... One of the priority lines of action for the next five years will be training of Administration of Justice personnel in what we might call a European legal culture...

(...)

The Treaty of Lisbon has introduced a new legal basis which opens up the possibility...of creating an entity that is of undeniable interest and enormous potential – the European Public Prosecutor's Office... We have succeeded in having the European Public Prosecutor's Office included expressly in the Stockholm programme, a move that we considered essential since, as I say, it falls to Spain to draw up the plan of action, the timetable...already during our Presidency we propose to initiate a first approximation to the question of the European Public Prosecutor's Office, its future configuration, its tasks and the best way to go about consolidating it as an institution, proposing it for debate and laying down the initial bases or common standards, which will be put up for...discussion in future presidencies.

(...)

In Spain during this time we shall be organising ten seminars or so on the priority topics of our mandate...victims, accession of the Union to the European Convention, procedural guarantees, reform of the Brussels I regulation, evaluation of the European Union-USA agreements on extradition and legal assistance, interconnection of registries, prosecution of money laundering, evidence in criminal proceedings, and also a meeting of the European judicial training network. To that end we can count on...funding from the European Commission for five of these seminars, which is undoubtedly an unprecedented and particularly significant development at this time. Another will be funded in its entirety by Eurojust, while the Vienna-based Fundamental Rights Agency will also be making a substantial contribution to the costs of the seminar we shall be organising precisely to galvanise that process of the Union's subscription or accession to the Rome Convention. Outwith the direct responsibility of the Ministry of Justice, it is also proposed to hold important meetings like the conference of supreme court presidents and attorneys general of the Member States of the European Union, whose discussions will undoubtedly be especially useful in orienting European justice policy.

(...)"

(*DSCG-Comisiones*, IX Leg., No. 88, pp. 2–8).

e) Health and Social Policy

On 16 November 2009, in her appearance before the parliamentary Commission for the EU, to explain the programme and priorities of the Spanish Presidency, the Minister of Health and Social Policy declared that:

“(…)

...In the sphere of health the Spanish Presidency will be placing special emphasis first of all on monitoring or following up the social factors affecting health and reducing inequalities...we shall be promoting the development of new mechanisms for monitoring and control of the social factors affecting health as an essential tool which will enable us to contribute to the social development and well-being of Europeans. To that end we shall be holding an informal council of health ministers in Madrid in mid-April, focusing on innovation in public health – monitoring of the social factors affecting health and reducing inequalities in health – which will be preceded by a preparatory conference of experts. We shall present the conclusions on this subject to the EPSCO Council in June on the basis of the recent communication from the Commission.

Secondly, the Spanish Presidency will be promoting organ donation and transplants in Europe, a field in which Spain is a recognised world leader. As early as December 2008 the European Commission presented a draft directive on quality and safety standards of human organs intended for transplanting, and Spain is making a considerable effort to facilitate the agreement necessary for it to be brought rapidly into force...we shall be organising a high level conference on organ transplants in Madrid at the end of March. This is also a great opportunity for us to respond to several Member States that have asked for our cooperation to implement our organ donation system in their own countries. Thirdly, the Spanish Presidency will be promoting clinical excellence and continuity of care, above all in the field of non-transmissible diseases...the aim of our Presidency is to generalise the use of good practices that have been observed at a European level. To that end we shall be organising a conference on mental health and the elderly, and another on cardiovascular diseases.

Fourthly, the Spanish Presidency will be paying particular attention to electronic health, also known as E-health. In the light of the Spanish initiatives, which have been highly successful in this field, we wish to lend a strong impetus to the use of technological tools and application of this kind of knowledge in the field of health, by organising a ministerial conference, to be held in Barcelona from 15 to 18 March and organised in conjunction with the European Commission. Fifthly, the Spanish Presidency will also be addressing the challenges posed by patient safety and the fight against HIV/AIDS. We shall be holding one conference on patient safety and another on HIV, 2010 Alianza Esther, with the slogan: United for cooperation, united for prevention, to be held in Madrid on 22 April. Sixthly, in the sphere of medicines the Spanish Presidency will be carrying on the review of the legislative package on pharmacy, particularly the directives on pharmacovigilance and false medicines with a view to reaching a common position during the first half of 2010. These measures will be backed up by a meeting of the authorities competent in respect of prices and financing of medicines, and also the numerous technical meetings that the Spanish Agency for Medicinal and Health Products will be organising as the current Presidency.

Finally, on the subject of food safety the Spanish Presidency will be focusing chiefly on continued development of skeleton standards, particularly for consumer information, new foods and hygiene for foodstuffs. But we shall also be addressing obesity and its health consequences, especially in the infant population, in order to achieve continuity and lend fresh impetus to the plan of action on nutrition, obesity and overweight that the European Commission has been promoting.

...As regards consumer habits and consumer protection... Under the Spanish Presidency it will be necessary to undertake a review of Directive 2001/95 on general product safety... To that end we intend to promote improved coordination with customs authorities – our country is a pioneer in coordination with border control authorities – and we shall be seeking to improve traceability and standardisation as a means of enabling a presumption of product safety. To that end we shall be organising a seminar on product safety and consumers...we shall also continue debating the draft directive on consumer rights, which has already been produced and was presented in December 2008, although there is still a long way to go.

...in the sphere of social policy the Spanish Presidency has identified five priority axes of action. First is... European year against poverty and social exclusion. Spain will be organising the inaugural conference in Madrid on 21 January next... In June there will be the Ninth Conference of persons in situations of poverty or social exclusion organised by the European anti-Poverty Network.

Second is...a review of the Lisbon strategy and the new European social agenda... For the Spanish Presidency the new social agenda must be seen as a fundamental instrument for implementation of social policy goals in the European Union, and therefore it must necessarily include the following elements: more protection, more inclusion and more social integration. The Spanish Presidency will therefore be working closely with the Commission on the design of the new European social agenda.

The third social policy axis of the Spanish Presidency is active ageing. Our Presidency will be promoting active ageing as a means of helping older people to enjoy a healthy life, well integrated in their surroundings, and we shall also be making a special effort to foster intergenerational solidarity. In this respect we shall be supporting the declaration of 2012 as active ageing and intergenerational relations year. In addition we shall be organising a ministerial conference in La Rioja on active and healthy ageing, to coincide with the EU Day of Intergenerational Solidarity in April.

The fourth axis is disability. In this connection we shall be cooperating actively with organisations of persons with disabilities to design a new strategy for the next ten years. At our EPSCO Conference in June we expect to see the approval of some conclusions in this respect. We want to see disability included in the design of the new European political cycle... Also, we shall be holding an informal conference of ministers on disability in Zaragoza on 19 May, followed by a European conference with organisations of persons with disabilities from all over the Union and the various administrations that work in this field...

The Spanish Presidency's fifth and last axis on the social front will also be placing particular emphasis on the needs of the Gypsy population. To that end the second European summit for inclusion of the Gypsy population will be held during the Spanish Presidency, to coincide with the International Day of the Gypsy People in the city of Córdoba on 8 April. The Commissioner for Employment, Social Affairs and Equal Opportunities, the Minister of Equality and myself, along with other representatives of Community institutions, will be presenting the new steps that have been taken in European and national policies in connection with the Gypsy population...

And lastly...given their multi-sectoral nature, policies on drugs will be hammered out by several ministries in coordination... The efforts of the Spanish Presidency will be focused essentially on achieving progress in the implementation of the European strategy on drugs for 2005–2012 and the plan of action for 2009–2012, promoting the following working areas: improvement in the quality of information systems, promotion of research and application thereof to policies based on scientific evidence, intensification of judicial and police cooperation with third countries and improved effectiveness of the mechanism of cooperation and coordination between the European Union and Latin America, and also the specialised dialogue between the European Union and the Andean Community. In this connection we shall also be organising a European conference on an integral approach to drug policies, to be held in March, and other meetings that are planned.

(...)"

(*DSCG-Comisiones*, IX Leg., No. 88, pp. 17–20).

f) Environment and Fisheries

In her appearance before the parliamentary Commission for the European Union, on 24 November 2009, to report on the programme and priorities of the Spanish Presidency of the EU, the Minister of the Environment and Rural and Marine Affairs informed that:

"(...)

...Let me detail some of my department's priorities within its purviews of climate change, biodiversity and forests, water management, fisheries or agriculture...our strategic priorities in the fight against climate change will rest on four main pillars: climate change/energy, agreements on reductions of emissions, regional cooperation and adaptation to water management. The first pillar, that is climate change/energy, is one that we see as transversal, running through our entire policy upon which to configure the fight against climate change, and in particular actions in the sphere of energy. We need to turn the existing economic and energy model into a sustainable one that will allow medium- and long-term growth and rational, socially responsible use of resources. The fight against climate change and overcoming the crisis should be viewed as two complementary facets, which if dealt with together could help in finding a way out of the current recession. The second pillar will be pursued on the basis of

the outcome of international agreements, both internationally and within the European Union...

Spain is primordially interested in making the Copenhagen agreement as ambitious and concrete as possible, and to that end we are working hard as a member of the Community troika... Nonetheless, we are all aware of the difficulties that lie ahead.... Following the Copenhagen summit... Spain must push for implementation of the agreement that is reached and administer its subsequent ratification by the European Union. Our third pillar in the field of climate change will be regional cooperation to reinforce the European Union's role as a global actor, addressing questions relating to environmental technologies to mitigate and adapt to climate change. And lastly, the fourth pillar is integration of adaptation to climate change directly into water management, setting it up as a reference mark for development cooperation policy in the European Union.

The objective during our Presidency will be to reach a unanimous agreement of environment ministers for the conduct of a broad-based assessment of the result of the summit and for the establishment of political guidelines for the European Union to follow in the construction, implementation and start-up of the future climatic regime. All this affects aspects of eco-innovation, fair transition and green economics, following on from the work done with previous presidencies...

...We are taking on the Presidency in a half-year that is crucial for Europe as regards biodiversity... Spain has one of the highest biodiversity indices of the entire European Union, and we are therefore particularly alive to the rapidity with which biodiversity is diminishing, both world-wide and on a European scale. The year 2010 will be a landmark for such biodiversity-related policies, a strategic year. Not only is it International Biodiversity Year but it will also be the time for a thoroughgoing debate on the subject in the European Union, defining objectives and taking on tasks following on from that year. It will fall to the Spanish Presidency to lead the negotiations to establish the European Union's post-2010 objective, and beforehand we shall be evaluating the achievements and the shortcomings in the process of slowing down the loss of biodiversity which began at the Gothenburg summit in 2001. In that connection I should highlight two actions: the first, in January, within the framework of the European Conference on protected areas and ecological networks, to be held in Madrid on 26 and 27 January, and the second, at the preparatory meeting before the summit for the Biodiversity Convention, to be held in Nairobi at the end of May.

...During the Spanish Presidency, it is planned to hold a ministerial conference on protection of forests, to take place in Valsaín, Segovia, on 6 and 7 April, the results of which will be presented to the Environment Council of 21 July 2010 for the adoption of conclusions.

Another of the elements or tools...is everything to do with water-related issues, but water with all its environmental, social and economic connotations. Likewise in the context of climate change, proper water management should be seen as a necessary tool for achieving the goals set out in the framework Water Directive. It is also an issue of vital importance in the Mediterranean area, which

is especially sensitive to the effects that will foreseeably ensue from climate change. Spain has traditionally played a prominent role in the spread of active policies dealing with the sustainability of water resources in the Mediterranean sphere and is a leader in knowledge and management of them. The present challenge as regards water management is to respond to the foreseeable.... The European Union Mediterranean countries ministerial conference on a Mediterranean water strategy, to be held in Barcelona on 12 to 14 April, will be an opportunity to work towards this goal...

During the Presidency we shall have two major priorities in the field of fisheries, and also others which I shall also detail. First there is the reform of the common fisheries policy, which will be addressed at the two councils of fisheries ministers and at an informal meeting of fisheries ministers on 4 and 4 May in Vigo; and second, the introduction of new multi-annual plans for certain fish stocks. The fund of experience and the different challenges we will be facing in the coming decade demand a new approach that takes account of social, economic, environmental and ecosystemic aspects in addition to integrated maritime policies. The future common fisheries policy must assure the sustainability of fisheries and a decent level of income for fishermen, sufficient to maintain jobs and keep the population in coastal regions that depend on fishing. For this reason economic activity must be approached in terms of efficacy and competitiveness, albeit with special attention to the social role played by shellfishing and small-scale fishing. We are convinced of the need to review the principle of relative stability and replace it with a more flexible formula more attuned to the realities of the different fisheries. We need a change in the existing management model, which is inflexible and unrealistic, based on TACs and quotas, to a different model centred on fishing effort and the allocation of effort ceilings...

During the Spanish Presidency we shall be examining the Commission document and a debate will be opened on the green paper, which is the denomination that has been given to the instrument setting out the reform of the CFP. We shall also have to approve new multi-annual management plans for stocks of various European fish species...at the last Council of European Union Ministers held last Friday the 20th, the Spanish delegation led a proposal that was initially supported by France, Italy and Portugal, later to be joined by the delegations of the Netherlands and Greece. At that Council of Ministers it was proposed to approve the regulation of technical measures for the fisheries sector, a regulation which in our view, and also in that of the Autonomous Communities and the fisheries sector itself, was immature: there had been no impact studies and the requisite consultations had not been conducted. At that Council of Ministers the regulation was withdrawn. A legal formula was sought to prolong the existing regulation for a further eighteen months, and consequently during the Spanish Presidency we shall commence the necessary sectoral consultations and also the start-up of impact assessments in order to prepare the general proposal of technical measures, although that will find us in the very early stages since we have eighteen months from 1 January next to draft it. Finally, and again closely related to biodiversity and fisheries, is protection of the marine environment.

We plan to hold a conference on global assessment of the marine environment and its relationship with aspects of research on an integrated maritime policy. All this will coincide with the entry into force of the framework Directive on Marine Strategy. We shall therefore be organising a European Maritime Day on 20 June in Gijón in order to highlight the crucial role that seas and oceans play in the lives of European citizens and their contribution to sustainable growth and employment”.

(*DSCG-Comisiones Mixtas*, IX Leg., No. 92, pp. 17–19).

g) *Development Cooperation*

In her intervention before Congress’ Committee on International Development Cooperation, the Secretary of State for International Cooperation, Mrs Rodríguez Ramos, explained the priorities of Spanish cooperation for the Presidency of the European Union:

“These priorities focus mainly on three areas: The first is fulfilment of the minimum agenda of the Millennium Development Goals; it will fall to us in 2010 to lead and coordinate the efforts of the Member States in preparation of the United Nations summit on the Millennium Goals, which as you know is scheduled for September 2010. Our priority in this respect will be the first Millennium Development Goal. We shall be working on hunger, which is now a priority axis of the Spanish State’s work and action, and on the MDGs of gender equality and health. The second priority axis is the Accra Agenda. What this means for the Spanish Presidency is an ambitious exercise in international division of labour, in which we shall be trying to set up a code of conduct for division of labour in the European Union. The third priority axis is the Monterrey consensus and hence the financing of official development assistance. Our work will focus on the fight against tax evasion and the illegal outflow of capital from developing countries – in other words development-oriented fiscal governability.

The framework of these three priority axes of our action in the European Union is defined by the Europe consensus on development approved in December 2005, according to which in 2010, the year that we take on the Presidency, the collective target for official development assistance by all the European Union Member States is 0.56 per cent of the 2010 gross national income.

(...)”.

(*DSC-C*, IX Leg., No. 368, pp. 2–3).

XIV. RESPONSIBILITY

1. Extraordinary renditions

On 17 March 2009, the Government, once again obliged to report on US flights that have made stopovers in Spanish territory en route to and from Guantánamo since May 2004, informed that:

“1. On 25 February 2007, the US authorities were asked for information on whether they had complied with the terms of the current Agreement on Defence Cooperation concluded by the two countries. In a written reply they stated that they had complied with Article 25(2) of the Convention, which generally regulates stopovers and overflights of US military aircraft within the scope of application of the Convention.

In all the documentation held by the Spanish Section of the US-Spanish Permanent Committee there is no record of any authorisation or knowledge of any illegal flight in contravention of the current provisions in that respect or international conventions signed by Spain.

We should note that as of 31 March 2007 blanket authorisations are not issued for flights to or from Guantánamo and requests are examined and authorised, if appropriate, on a case-by-case basis.

2. As far as the Government is aware, in no case has there been any knowledge or record of any flight of an illegal nature or contravening current provisions regarding human rights or international conventions signed by Spain. From which it follows that to date the US authorities have complied with Article 25(2) of the Agreement on Defence Cooperation concluded by the two countries.

Under the Rule of Law in this country, it is up to the judges designated by Law to determine what constitutes criminal participation and evidence of a crime. In this connection a judicial investigation is currently in progress, with the full cooperation of the Ministry of Defence and other Ministries.

3 and 4. The Government has been in contact with the US authorities at various levels and on various occasions to discuss this issue. The Director-General for E and North America at the Minister of Foreign Affairs and Cooperation (MAEC) met the Chargé d’Affaires of the US Embassy in Madrid on 21 March 2005, the Assistant Secretary of State for Europe, Mr. Fried, on an official visit to Spain in November 2005, and again the Chargé d’Affaires of the US Embassy in Madrid in March 2006.

In all those meetings the Americans stated that as far as they were aware, Spanish law had not been violated on any occasion and that there had been no prisoners on board the aircraft that had made stopovers in Spanish territory.

In addition, in reply to a specific request from the Spanish Section of the US-Spanish Permanent Committee, the Chairman of the US Section replied in writing in February 2007 that as regards this matter the US authorities have acted fully in accord with the current Agreement on Defence Cooperation and have not infringed Article 25(2) of that Agreement”.

(*BOCG-Congreso.D*, IX Leg., No. 209, p. 290).

XV. PEACEFUL SETTLEMENT OF DISPUTES

1. Jurisdictional Modes of Settlement

In his intervention before the plenary meeting of the United Nations General Assembly during its 63rd session period, Spanish representative, Mr. Yáñez-Barnuevo,

explained Spain's position regarding Serbia's request for an advisory consultative opinion from the United Nations General Assembly, stating that:

"As is well known, the Spanish Government believes that respect for International Law is the fundamental principle governing the actions of States and international organizations, and in particular the United Nations, in the context of their international relations. Spain has therefore placed that fundamental principle at the core of all its actions in the international arena, while at the same time giving the United Nations an unparalleled leading role in that regard.

It is also well known that the Spanish Government attaches great importance to the correct functioning of the principal organs of the Organization, including the General Assembly and the International Court of Justice, and to interaction among those organs to promote the achievement of the purposes and principles of the United Nations, in accordance with the Charter.

In that regard, we feel that, in the general interest of the Organization and the international community as a whole, it would be advisable to provide the Assembly with an authorized opinion of the main judicial body of the United Nations on the legal aspects of issues that, such as the present one regarding Kosovo, have been the object of diverse interpretations by Member States.

Moreover, we believe that it will ultimately fall to this Assembly and the other bodies of the United Nations to draw the conclusions they deem appropriate concerning the advisory opinion that the International Court of Justice will pronounce at the proper moment, without, at this stage at least, drawing any preliminary conclusions or conditioning in any way the actions of the main judicial organ of the United Nations, which enjoys full independence and impartiality in accordance with the Charter of the United Nations and its statutes.

Therefore, Spain will vote in favour of the draft resolution submitted by Serbia, contained in document A/63/L.2".

(A/63/PV.22, pp. 7–8).

In her appearance before the International Court of Justice, on 8 December, the Head of the Legal Department of the Ministry of Foreign Affairs and Cooperation, Mrs. Escobar Hernández, explained Spain's position regarding the ICJ's competence to issue an advisory opinion on Kosovo at the request of the UN General Assembly:

"(...)

5. Spain's participation in these proceedings is based on its acknowledgement of the jurisdiction vested in the Court in the present circumstances.

(...)

7. In this connection, I wish to make clear that we entertain no doubt as to the legal nature of the question put by the General Assembly. The question bears a close connection with the interpretation of fundamental norms and principles, and with norms –no less important in the present case– governing the international regime established by the Security Council for Kosovo, including the process to determine its future status. The legal aspect of these considerations I have just mentioned must not be underestimated, and it calls for a decision by the principal judicial organ of the United Nations.

8. While there are obvious political considerations underlying the question put by the General Assembly, we must not forget that the Court itself has pointed out that this, “in nature of things, is the case with so many questions arise in international life (*Legality of the Use by A State of Nuclear Weapons in Armed Conflict, Advisory Opinion, I.C.J. 1996 (I)*, p. 73, para. 16), but that this fact “does not suffice to deprive it of its character as a ‘legal question’ (*ibid.*).

9. Moreover, as the Court has also expressly stated, the exercise of the advisory jurisdiction “represents its participation in the activities of the Organization” and, accordingly, the answer to a request for an advisory opinion, “in principle, should not be refused” (*Legal Consequences of the construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J., Reports 2004 (I)*, p. 156, para. 44). From this perspective, we do not think it possible to point in the present instance to any “compelling reasons” which could justify a decision by the Court not to exercise such jurisdiction on the ground of propriety or even the potential ineffectiveness of an opinion it might render. Quite the opposite, the subjects at the root of the General Assembly’s question relate to core principles of International Law and to the system for maintaining international peace and security established by the Charter of the United Nations.

10. In conclusion, there is no doubt in Spain’s mind that the International Court of Justice has full jurisdiction to give an advisory opinion on the question that has been put to it. And we are consequently confident that the Court will fulfil its central responsibility of laying down the law and thereby helping to ensure respect for the rule of law at the international level”.

(CR 2009/30, pp. 3–4).

XVI. COERCION AND THE USE OF FORCE SHORT OF WAR

1. Collective measures

Note: See XII.2. NATO Operations

XVII. WAR AND NEUTRALITY

1. Disarmament

a) Cluster Bombs

In response to a written question tabled in the Congress of Deputies, on 13 May 2009, the Government reported on the dismantling/destruction of cluster munitions:

“As the Minister of Defence said on 18 March in the Congress of Deputies, since Parliament’s ratification of the Dublin Convention on cluster munitions, “Spain has eliminated its entire arsenal of cluster bombs within the time limit”.

Last December the Ministry of Defence signed a contract with the undertaking *Fabricaciones Extremeñas S. A.* (FAEX) to dismantle and destroy those munitions. A total of 5,589 bombs have been destroyed by the firm FAEX.

The cost of the budget item allocated to the contract is around five million euro, in two annual instalments in 2008 and 2009.

With the elimination of our arsenal of cluster bombs, all the military capabilities of the Spanish armed forces are in compliance with the terms of the Dublin Convention, as will any capabilities that are acquired henceforth. We are examining various possibilities to assure an alternative workload for the undertakings concerned”.

(*BOCG-Congreso.D*, IX Leg., No. 219, p. 62).

b) Anti-personnel Mines

On 14 August 2009, the Government reported on the actions undertaken for demining and assistance for the victims of anti-personnel mines:

“Spain maintained a posture of active commitment at the Nairobi Summit on a Mine-Free World, the name given to the First Review Conference of the Convention on prohibition of the use, stocking, production and transfer of anti-personnel mines and on their destruction, which was held in the Kenyan capital between 9 November and 03 December 2004. Since then we have pursued an intensive policy as a donor country in the sphere of action against anti-personnel mines, for which our frame of reference has been the recommendations set out in the 2005–2009 Nairobi Action Plan that was adopted at that Summit.

(...)

Spain has a high-profile commitment to the problem of anti-personnel mines, and its position regarding the Anti-Personnel Mine Ban Convention is based on the following three elements:

- As a State Party, Spain is closely involved in applying the provisions of the Convention and at the same time advocates its universal application.

- Spain was one of the first States to ratify it, and also one of the first to destroy its arsenal of anti-personnel mines and to adopt internal legislation banning the manufacture, stocking and use of mines.

- Today we are one of the principal ‘donor countries’ in this field, where we pursue a policy of assistance in all areas on a universal geographic scale. The Government has thus always stood unequivocally against anti-personnel mines. In particular, the Ministry of Defence works mainly in two ways:

- Training courses for armed forces personnel and also for personnel of third countries, all provided by the International Centre for Demining (CID) in Hoyo de Manzanares.

- Demining actions carried out by contingents deployed in operation zones.

(...).’

(*BOCG-Congreso.D*, IX Leg., No. 262, pp. 971–972).

c) Arms Exports

On 8 May 2009, the Government published the following list of African countries to which Spain sells arms:

“According to the statistical report on exports of defence material, other material and dual-use products and technologies, the African countries to which Spain exported defence material in 2007 were as follows:

Egypt
Guinea-Bissau
Morocco
Namibia
Senegal
Tanzania”.

(*BOCG-Senado.I*, IX Leg., No. 286, p. 67).

On 10 February 2009, the Minister of Industry, Tourism and Trade, Mr. Sebastián Gascón, spoke about controls of the exportation of arms to Israel:

“As you well know, the exportation of defence and dual-use material is constantly monitored, thus in practice preventing the authorisation of transactions that violate the national and international rules which we have incorporated into our legal system in that respect.

In the particular case of Israel, since the second Intifada these controls have been further tightened, and it is forbidden to authorise the exportation of arms that may be lethal or can be used for riot control.

In addition, in relative terms our exports to Israel account for 0.16 per cent of our total defence material exports, which gives an idea of the scant importance of our trade with that country in defence and dual-use material.

(...)

Turning to the issue here, the first thing I would like to make clear is that in the first quarter of 2008, authorisations for exports of defence material to Israel decreased rather than increasing. The total value of the transactions authorised for Israel in the first half of 2007 came to 4,224,029 euro, and in the first half of 2008 it came to 157,200 euro, that is 96 per cent less than in the previous period.

(...)

I can therefore assure you that no Spanish defence or dual-use material has been used in actions that disturb the peace, stability or security of the area. In any case, for your peace of mind I can assure you that the Government will continue to monitor compliance with the legal framework that we apply to the exportation of this kind of materials, particularly and most stringently in more unstable parts of the world”.

(*DSS-P*, IX Leg., No. 27, pp. 1182–1183).