

Spanish Diplomatic and Parliamentary Practice in Public International Law, 2008

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Except where otherwise indicated, the texts quoted in this section come from the OID, and more specifically from the OID publication Pol. Ext. 2007 (<http://www.maec.es>), and from the International Legal Service of the Ministry of Foreign Affairs, whose collaboration we appreciate.

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

The XVIII Latin America Summit of Heads of State and Government held in San Salvador (El Salvador) from 29 to 31 October 2008 entitled "Youth and Development" adopted a Final Declaration which included the following:

"The Heads of State and Government of the twenty-two members of the Ibero-American Community, meeting in the city of San Salvador, Republic of El Salvador...

AGREE AS FOLLOWS

(...)

2. To develop policies, which shall promote solidarity, justice, tolerance, equality, equal rights and peace among young Ibero-Americans as well as their active participation as social players and major protagonists for development in a globalised and interdependent world.

4. To reiterate our commitment to the principles and aims acknowledged in the United Nations Charter, the essential values of democracy, the promotion and respect for all human rights, the strengthening of multilateralism, the fight on terrorism and transnational organised crime and rejection of unilateral coercive methods contrary to international law, which are the fundamental pillars enabling young people to contribute as active subjects in the building of societies based on social justice, tolerance and pacific co-existence.

5. To boost and enlarge a comprehensive development strategy supporting the human development of youth through the implementation of programmes and actions contributing to the eradication of poverty and guaranteeing access to quality health and education, decent work and food and nutritional security hence fortifying full development under equal opportunity and contributing to the fulfilment of the Millennium Development Goals.

(...)

15. Through the exchange of best practices and lessons learned, enhance public policies designed to combat trafficking, to prevent drug abuse and treat its young victims from the perspective of the youth affected who are not responsible for this problem and provide them with special care.

16. To guarantee the young people's right to live in a peaceful environment generating inter-generational and intercultural fora for dialogue and political participation allowing for the construction of fairer, more cohesive, participatory, democratic and inclusive societies and world order.

17. To strengthen national and international strategies designed to prevent crime, apply sanctions, rehabilitate and provide differentiated care and special education for youth with social behaviour problems, social reinsertion and eradication of youth violence in all of its forms, including gender-based violence.

18. To develop and disseminate successful experiences and policies whose aim is to guarantee and promote the exercise of the rights and the incorporation of young women in all ambits of society at local, regional, national and international level.

19. To promote a greater degree of political and democratic participation on the part of youth by lending support to the youth organisations, associations and networks of Latin America and the recently created Ibero-American Youth Space, remaining mindful of their full autonomy.

(...)

22. To increase the number of initiatives targeting environmental education with a view to fostering respect and care of our surroundings, promoting the participation of young people as strategic players in environmental management and sustainable development through programmes promoting environmental recovery and conservation, reduction in the risk of disasters, efficient energy use, conservation and sustainable use of biodiversity and natural resources to tackle the challenges posed by climate change.

26. To promote policies promoting the elimination of all types of discrimination against young people within the framework of the "Ibero-American Year against all Forms of Discrimination".

(...)

28. To foster the orderly and safe administration of migration, reiterating that education, employment and development opportunities all contribute to preventing brain-drain and have a positive effect on taking advantage of the talents of young people in their countries of origin.

29. To promote, within the framework of the historical and cultural ties uniting Ibero-American countries and considering the Montevideo Commitment on

Migration and Development and in keeping with relevant international instruments and respecting national legislation, a structured and comprehensive dialogue in order to overcome situations affecting migrants and their families and move forward on the migration agenda linked to positive and proactive human development based on full respect of their human rights regardless of their migratory status.

30. To enhance prevention and the fight on illegal trafficking in migrants and human beings in general and care provided to the victims of these situations.

31. To promote spaces for initiatives and the participation of Ibero-American youth within the framework of the Alliance of Civilisations and integrate them into the working groups and their programmes especially in the fields of education, employment and the media with a view to contributing to the breakdown of cultural barriers and to generating exchanges and solidarity between youth of different cultures.

(...)

36. To take due note of the entry into force this year of the Ibero-American Convention on the Rights of Youth.

(...)"

The Final Declaration adopted by the Heads of State and Government of Latin America, the Caribbean and the European Union at the 5th Summit held in Lima (Peru) on 16 May 2008 also stated as follows:

"1. We reaffirm our commitment to the principles and values that support our bi-regional relationship, as well as to the shared objectives, commitments and joint positions adopted from Rio de Janeiro to Vienna.

2. We will actively pursue the negotiations of Association Agreements as common strategic objectives of very high political priority. We congratulate the successful implementation of the Association Agreements between Mexico and Chile and the EU. The European Union and the Caribbean Forum (CARIFORUM) as part of the African, Caribbean and Pacific groups of states (ACP), welcome the successful conclusion of the negotiations for an Economic Partnership Agreement.

We note with satisfaction the start in 2007 of the negotiations between the EU and Central America and the Andean Community in view of ambitious and comprehensive bi-regional Association Agreements, which take into account asymmetries between and within the regions...

We welcome the ongoing efforts to reach an agreement between the European Union and Central America. In this perspective, we recall the importance of regional integration as recognised in the Vienna Summit, and we acknowledge with satisfaction the positive results achieved so far...

Equally, we welcome the determination of the Andean Community and the European Union to make all efforts to conclude an Association Agreement, which contributes to the further development of the Andean integration process...

We stress the importance of an ambitious and balanced Mercosur-EU Association Agreement and reiterate our commitment to bring the negotiations to a

successful conclusion as soon as the conditions allow, building upon the existing work already achieved.

(...)

4. We reaffirm our commitment to the purposes and principles enshrined in the Charter of the United Nations, we reaffirm our decision to support all efforts to uphold the sovereign equality of all States, to respect their territorial integrity and political independence, to refrain in our international relations from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations, to uphold resolution of disputes by peaceful means and in conformity with the principles of justice and international law.

We firmly reject all coercive measures of a unilateral character with extraterritorial effect that are contrary to international law and the commonly accepted rules of free trade. We agree that this type of practice poses a serious threat to multilateralism. In this context, and with reference to UNGA resolution A/RES/62/3, we reaffirm our well-known positions on the application of the extra-territorial provisions of the Helms-Burton Act.

5. We reaffirm our commitment to the timely and successful conclusion of the WTO Doha Development Round and reiterate our willingness to reach an ambitious, comprehensive and balanced outcome. In this respect, we look forward to an upcoming WTO Ministerial meeting as a key opportunity to move rapidly towards the conclusion of the Doha Development Agenda.

6. We will cooperate, in the framework of international law, on matters of security (inter alia, illicit drugs and weapons trafficking, organized crime and terrorism, including hostage taking), acknowledging the need to address their impact on democratic societies and their development.

7. We will further our cooperation, in accordance with the principle of shared responsibility, in confronting the world drug problem. The LAC-EU Coordination and Cooperation Mechanism on Drugs should be strengthened as a framework for a more efficient bi-regional dialogue.

(...)

9. We welcome the efforts by the Haitian Government and people to revitalise their State institutions and combat poverty, inequality and social injustices. In this context we express our support to MINUSTAH and the Group of Friends of Haiti. We acknowledge the need for urgent and effective continued action by the international community on behalf of rehabilitation and development in Haiti.

(...)

10. Overcoming poverty, inequality and exclusion is crucial for the attainment of social cohesion, for sustainable development and for the effectiveness of our bi-regional partnership. Environmental degradation and climate change seriously affect our economic growth, hitting the poor hardest and seriously threatening the prospects for the overall future of our peoples.

We recognize that actions to address these challenges are interrelated and should benefit, when appropriate, from synergies so as to promote sustainable development. In this endeavour we acknowledge the role of financial development

institutions and the international donor community, in actively supporting sustainable social development in our societies.

(...)"

II. SOURCES OF INTERNATIONAL LAW

III. RELATIONS BETWEEN INTERNATIONAL LAW AND MUNICIPAL LAW

IV. SUBJECTS OF INTERNATIONAL LAW

On 8 October 2008 the Spanish representative before the United Nations, Mr. Yáñez-Barnuevo, addressed the General Assembly to explain Spain's position regarding the request made by the General Assembly (at the initiative of Serbia) for a Consultative Opinion from the International Court of Justice regarding the declaration of independence of Kosovo. The Spanish representative stated as follows:

"As is well-known, the Spanish Government believes that respect for international law is the fundamental principle governing the actions of States and international organisations, 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 Organisations, 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 Organisation 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".

(A/63/PV. 22; p. 8).

A few days later, on 21 October, the Secretary of State for Foreign Affairs, Mr. Losada Torres-Quevedo, answered a parliamentary query before the Senate regard-

ing whether the Ministry of Foreign Affairs and Cooperation plans to continue delaying diplomatic recognition of the Republic of Kosovo until one hundred other countries do so first. The Secretary of State responded as follows:

“As is well known, Spain’s position on unilateral declaration of independence is to not acknowledge the said declaration...for reasons of respect for international legality. This position, based on our interpretation of international legality, is not at all contingent upon the number of States that may or may not have recognised this independence. To date, 51 of the 192 United Nations Member Countries have recognised this declaration. Therefore, we are far from being on our own in terms of the number of countries that have not recognised this independence. The territorial integrity and sovereignty of Serbia is enshrined in United Nations Security Council Resolution 1244 and as long as this Resolution remains in force, Kosovo’s status obviously could only be changed by another Security Council resolution.

Quite frankly, I am not familiar with those declarations or alleged declarations made by the Minister of Foreign Affairs but what I can say is that they in no way reflect the position that the Minister has always held and that is that non-recognition is based on international legality and is not contingent upon the number of states who may recognise Kosovo’s declaration.

It is true that we continue to maintain the troops deployed by KFOR, i.e. the troops in Kosovo. The Security Council Resolution by virtue of which this NATO force was deployed is still in force and we believe that for the time being Spain’s military presence is contributing to the region’s security and stability in the Balkans. It is therefore perfectly compatible with the position we have adopted on the non-recognition of Kosovo but also, as I mentioned, allows us to contribute to guaranteeing security and stability throughout the region, the integrity of persons and respect for human rights, including those of minorities.

And lastly, you also enquired about Spain’s position regarding Serbia’s initiative presented before the United Nations General Assembly requesting a ruling from the International Court of Justice on the independence of Kosovo. Spain voted in favour of that resolution which is consistent with the stance it has taken and is also consistent with the priority we place on international legality and the United Nations as a whole and we therefore recognise the relevance of the opinion of the most important judicial body of the United Nations regarding an issue which we do not all consider legal and in line with international law.

Moreover, States have the inalienable right to call upon the General Assembly to solicit the opinion of the Court of Justice on an issue of such vital importance for a country – its territorial integrity. We therefore believe that Serbia is absolutely entitled to request this resolution and we to support it”.

(*DSS-C*, IX Leg., n. 69, pp. 24–25).

V. THE INDIVIDUAL IN INTERNATIONAL LAW

1. Diplomatic and Consular Protection

a) *Consular Protection*

In response to a parliamentary query on 31 January 2008 the Spanish Government reported on arrangements made regarding the incident involving the Spanish fishing vessel *Bahía de Portosanto* in Mauritania:

“On 6 December the Spanish Embassy in Nouakchott was informed by the Chancellor in charge of the Nouadhibou Consulate of the provisional arrest that same day by the Nouadhibou National Gendarmerie of two Spanish citizens, Mr. Juan José Salazar Castro and Mr. José Posta Salazar, Captain and Chief Mate respectively of the Spanish flagship fishing vessel *Bahía de Puertosanto*.

The reason for the arrest was an incident which had occurred in the wee hours of morning of Thursday the 6th. According to those arrested, the fishing vessel had crashed into an unidentified object. During the ensuing hours a search of the area was conducted and several life jackets and gasoline cans were found which could have indicated a shipwrecked *cayuco* although no shipwrecked persons were found.

The fishing vessel had not reported the incident to maritime rescue or to the Mauritanian police or Gendarmerie. The authorities had learned of the incident through a crew member of the fishing vessel and the authorities therefore provisionally arrested the two aforementioned citizens when a cadaver of unknown origin was found along the coast of Nouadhibou.

These two Spanish citizens remained at the disposal of the police and judicial authorities during the investigation conducted by the Mauritanian authorities but had full freedom of movement throughout the city and were even permitted to sleep aboard their ship until they were released with no charges at 16:00 on Monday 10 December after appearing before the Nouadhibou Public Prosecutor.

The owner of the allegedly shipwrecked fishing *cayuco* came forward during the course of the investigation to identify the cadaver as the Captain of one of the *cayucos* which had left port with five fishermen on board on Monday of that week. None of the bodies of the other four sailors on board the *cayuco* were found then or later.

In the meantime, the Mauritanian consignee of the ship and the lawyer representing the ship's insurer negotiated compensation to be paid to the families with the lawyer of the alleged shipwreck victims. The result of the negotiations was an out of court settlement among the stakeholders called an “arrangement in the event of death” where compensation payment to be made by the insurance company was agreed in the amount of 15 million ouguiyas (approximately €42,000) to be shared among the families of the five alleged victims and the owner of the *cayuco*. Following the signing of this agreement the prosecutor labelled the event an “accident” and freed the detainees without charges.

Consular assistance was provided for these two sailors throughout the four days they were detained in Nouadhibou through the Consulate in Nouadhibou. The Attaché in charge of this Consulate was informed of the arrest as soon as it occurred and, in turn, informed the Embassy in Nouakchott. The Attaché in charge of the Consulate visited the two Spanish subjects on a number of occasions during the four days they were detained in Nouakchott. The Gendarmerie reported on the accusations filed against the two Spanish subjects and they were always accompanied in actions with the Mauritanian Gendarmerie and later, in the hearing, they were accompanied by the Consulate secretary who acted as both interpreter and translator in the court hearing. The Attaché in charge of the Consulate also kept the Ambassador and the official in charge of consular affairs in Nouakchott abreast of the situation by telephone and in writing”.

(BOCG-Congreso D, VIII Leg., n. 672, pp. 307–308).

2. Aliens

Note: See XI.3. Immigration

In response to a parliamentary query on 18 January 2008 the Spanish Government reported on the number of illegal immigrants deported and returned and the cost of these deportations and returns:

“Organic Law 4/2000 of 11 January on the rights and freedoms of aliens in Spain and their social integration envisages deportation and return measures. Deportation is applied in the case of aliens who, while in Spanish territory, commit any of the crimes listed in Articles 53 or 54 of the said regulation; while return, provided for in Article 58, is applied to aliens who, having been deported, violate the prohibition to enter Spain and to those who seek to enter the country illegally.

Following are the deportations of illegal immigrants in 2004 (as from April), 2005, 2006 and from 1 January to 31 August 2007 and their economic cost:

2004

Deportations: 9,575	Total cost: 11,734,431 €
Returns: 11,266	Individual cost: 563.10 €
TOTAL: 20,841	

2005

Deportations: 11,002	Total cost: 11,620,928 €
Returns: 14,341	Individual cost: 458.50 €
TOTAL: 25,343	

2006

Deportations: 11,373	Total cost: 21,977,166 €
Returns: 21,652	Individual cost: 665.40 €
TOTAL: 33,025	

2007 (through 31 August)

Deportations: 6,682

Returns: 10,039

TOTAL: 16,721

Total cost: 12,888,111 €

Individual cost: 674.80 €

The number of illegal immigrants who will be deported or returned by 31 December of this year will depend on a number of factors including the number who try to enter and whether they are found.

Furthermore, expenses corresponding to subsistence allowances and travel tickets for members of the National Police Corps taking part in deportation and repatriation operations during the period in question are as follows:

2004 (April–December)	1,144,976 €
2005	1,533,723 €
2006	1,837,021 €
2007 (Jan–Aug)	1,969,051 €”

(*BOCG-Congreso D*, VIII Leg., n. 666, pp. 211–212).

In response to a parliamentary query on 18 December 2008 the Spanish Government reported on funding and measures to combat illegal immigration from North African States:

“Migratory policy in and of itself is a complex challenge which the Government has addressed from a global perspective territorially (North Africa being a key territory) and comprehensively in terms of content (promotion of orderly legal immigration which is the result of domestic labour market needs; combating illegal immigration; cooperation with third countries; and the integration of legal residents).

Having regard to the question you posed, we would draw your attention to the following main actions taken with regard to combating illegal immigration from North Africa:

1. International cooperation

As concerns illegal immigration we put a high priority on getting at the root causes at origin which demands fostering growing cooperation and making headway in achieving the bilateral or multilateral instruments with the authorities of the countries of origin:

– Hence, the orderly arrival of regular labour flows in accordance with needs detected in the domestic labour market is an indirect way of combating illegal immigration. We would draw attention to the agreements on the regulation and ordering of migratory flows setting up a bilateral framework for the ordering of migratory labour flows which can also broadly regulate aspects such as the communication of job openings, assessment of professional requirements, rights and labour and social conditions, specific provisions affecting seasonal workers, processing of requisite visas and the voluntary return of immigrant workers.

Having regard to African countries, agreements on the regulation and management of migratory flows are currently in force with Morocco and Mauritania.

We have an administrative agreement with Senegal to channel labour migratory flows from that country to Spain.

– Having established the foregoing, and as an international instrument with direct implications in the fight against illegal immigration, we would highlight existing readmission agreements whose purpose is to facilitate identification and readmission proceedings for those who find themselves in an illegal situation.

Having regard to Africa, agreements of this sort have been signed with Morocco, Nigeria, Mauritania, Algeria and Guinea-Bissau. A text with Ghana has been initialled and is pending signature.

– Thirdly, in some of the Framework Agreements on immigration cooperation, in addition to the establishment of rules regarding readmission proceedings, the parties commit, within the limits of their possibilities and resources, to provide mutual assistance in terms of voluntary and assisted return programmes and to foster legal hiring and police and operational assistance in combating illegal immigration, etc.

The Framework Agreements for migratory cooperation signed with the following States form part of the 2006–2008 Africa Plan passed by the Government and which contains an ambitious set of measures to contribute to the development of that continent: Gambia, Guinea-Conakry, Cape Verde, Mali and Niger.

As for Morocco, country with which Spain has signed and put into force an agreement to regulate migratory flows and another on readmission, I would draw attention to the existence of a standing Spanish-Moroccan Working Group which holds biannual high-level meetings for the study of issues such as the identification of border areas, the implementation of joint teams and other areas of cooperation regarding matters of repatriation and return.

Moreover, within the ambit of the European Union Spain took part in the EU mission to Senegal on 26–27 September 2007 for the general purpose of encouraging political dialogue concerning immigration issues with that country. Efforts are also under way to get Senegal involved in a forthcoming “mobility association” with the EU, an initiative undertaken by this latter institution and expected to take form during the French Presidency during the second half of this year.

These mobility associations are regulated in the European Commission Notice of 16.05.07 taking the form of a complex legal entity in which the European Union, the Member States interested in participating and the third state with which the association is concluded, assume a series of rights and obligations.

By way of example, the obligations of the third country with which a mobility association is formed could be as follows: collaboration in the identification and readmission of their own nationals; readmission of the nationals of third countries and of stateless persons arriving to the territory of EU Member States through the territory of the affected country; initiatives to discourage illegal migration through specific information campaigns; and efforts to enhance border control and/or management with support, as the case may be, from operational cooperation with Member States and/or Frontex.

Also, in 2006 and 2007 Bilateral Agreements were concluded with Morocco and Senegal for cooperation to prevent the emigration of non-accompanied minors and in favour of their protection and assisted return.

Both Agreements were signed “ad referendum”, with Senegal on 5 December 2006 and with Morocco on 6 March 2007 and in both cases all of the formalities required under Spanish law for the conclusion of international agreements have been completed.

The Agreement between the Republic of Senegal and the Kingdom of Spain was published in the “Official State Gazette” on 18 July and entered into force on 1 July 2008, date of the reception of the last crossed notification between the Parties through diplomatic channels in compliance with mandatory domestic requirements”.

(*BOCG-Senado I*, IX Leg., n. 148, pp. 12–13).

In response to a parliamentary query on 17 December 2008 the Spanish Government reported on the application of asylum policy in Spain:

“The asylum system currently in force guarantees the non-return of asylum seekers. As a result, all asylum seekers have guaranteed permanence in Spain until their application has been processed.

A series of measures has recently been adopted to strengthen the exercise of asylum including those especially targeting persons who have recently arrived to Spain on board *pateras* and other irregular vessels arriving to Spain whose passengers are placed in internment centres.

– The November 2005 Instruction received from the Directorate-General for Domestic Policy provides information on the international protection of these persons with the aim of providing them with effective knowledge of the possibilities of international protection guaranteed by Spain to those whose circumstances make them eligible under current legislation and, as the case may be, helps them to gain access to the said protection.

– The Directorate-General for Domestic Policy, in collaboration with the General Council of the Advocate for the State and the Bar Associations of the Canary Islands, has been carrying out training in the area of international protection targeting lawyers taking part in proceedings involving the arrival of these individuals in which the United Nations High Commissioner for Refugees (UNHCR) takes part.

– Measures have been taken to facilitate access to alien internment centres in the Canary Islands for NGOs specialised in refugee law.

Over and above these measures, the UNHCR makes scheduled visits to Alien Internment Centres to check the proper operation of the asylum system.

Measures have likewise been adopted to deal with stowaways in order to discern whether they may be in need of international protection. These measures are found in the joint Instructions of the Directorate-General of the Police and *Guardia Civil*, of the Directorate-General for Domestic Policy and of the Directorate-General for Immigration of 28 November 2007 on the treatment of alien stowaways.

In any case, the filing of asylum requests depends on the will of the person in question to initiate asylum proceedings.

Inasmuch as the asylum proceeding itself, applicable laws lay down a series of guarantees for asylum seekers with the aim of fairly and effectively determining which people are truly in need of international protection.

From among these guarantees, special mention can be made of asylum seekers' right to legal assistance which will be provided free of charge if the person is not able to pay (oftentimes provided by specialised NGOs) and, where required, an interpreter. In fact, all asylum seekers in Spain receive an information leaflet in their native language (or one they understand) informing them of their rights which include legal assistance and interpretation. They are also given information on the different NGOs in Spain providing services for asylum seekers.

Other guarantees include the processing of asylum applications by a specialised body, i.e. the Asylum and Refugee Office, the participation of the UNHCR at all stages of the proceeding and the formulation of motions for resolution by a Committee comprised of representatives of the Ministries of the Interior, Justice, Foreign Affairs and Cooperation and Labour and Immigration, the UNHCR being invited to all of their sessions.

Once the administrative process has concluded, there is a redress procedure before the courts and tribunals against decisions taken in asylum cases and the possibility that these judicial bodies adopt, upon request by the interested party, precautionary measures to suspend the contested decision.

Asylum seekers failing to meet the requirements laid down in the 1951 Geneva Convention relating to the status of refugees for recognition as such, but where serious and grounded reasons are found indicating that return to their country of origin could pose a real risk to their life or physical integrity, are granted authorisation to remain in Spain in compliance with the provisions of Article 17(2) of the Asylum Act.

European Union asylum policy is based on the firm commitment to guarantee that no persecuted person be returned to the persecuting country and to offer such persons a high level of protection in application of the 1951 Geneva Convention relating to the status of refugees and other applicable treaties.

The Common European Asylum System is at its second and final phase and to that end the European Commission has prepared a series of initiatives forming part of its Action Plan adopted on 17 June past based on the principles of:

- Respect for fundamental rights and Europe's humanitarian tradition and protection.
- Establishment of a framework for asylum where all asylum seekers are treated equally with a high level of guarantees and procedures.
- Bolstering of the efficiency of asylum systems.
- Solidarity within and outside of the European Union.

Furthermore, the identification of persons in need of international protection forming part of the so-called mixed groups is the major challenge facing asylum systems. That is why it is of the essence to guarantee that persons in need of international protection are given access to fair and effective proceedings for which the measures referred to in the foregoing have been adopted.

As for detention, applicable asylum laws do not provide for the detention of aliens because they have applied for asylum. Only in cases of applications filed at border posts by those who do not meet the requirements to enter national territory, Article 5(7) of Law 5/1984 of 26 March 1984 regulating the right to asylum and refugee status provides that in these cases asylum seekers shall remain at border posts in facilities arranged for that purpose but, in accordance with Article 20(1) b) of the Asylum Act implementing Regulation, such persons may not be detained there for more than 72 hours as from the official filing of the asylum request.

Also, in accordance with Directive 2003/9/EC, Member States may grant residency to an asylum seeker for reasons of public interest, public order or when so called for by the swift processing and effective supervision of his request; as necessary for legal or public order reasons, an asylum seeker may also be detained in a particular place in accordance with national law.

Lastly I would like to point out that the Ministry of the Interior, at its appearance dossier No 214/7, DSS No 29 before the Congressional Committee of the Interior on 27 May 2008, reported on the reform of the Asylum Act in order to incorporate Community Directives on asylum and to fully adapt our legislation to the Common European Asylum System”.

(*BOCG-Senado I*, IX Leg., n. 147, pp. 16–18).

3. Human Rights

a) *Western Sahara*

In response to a parliamentary query posed on 13.10.08, the Spanish Government reported on the measures to be adopted against human rights violations committed in the occupied territories of Western Sahara:

“The President of the Government travelled to Uxda (Morocco) on 11 July 2008 and was received by His Majesty King Mohamed VI and met with the Prime Minister El Fassi.

Having regard to the issue of Western Sahara, the President of the Government renewed the firm commitment of the Spanish Government to the negotiation process launched in June 2007 under the auspices of the United Nations stemming from Security Council Resolution 1754.

This Resolution called on the parties, and was reiterated in subsequent Resolutions 1783 and 1813, to hold negotiations in good faith and without pre-existing conditions under the auspices of the Secretary-General in order to reach a fair, lasting and mutually acceptable political solution allowing for self-determination.

Spain has been collaborating very actively with the United Nations to make possible and sustain the negotiation process put in motion by Resolution 1754 of April 2007. This is the best way to achieve a lasting and fair solution within the legal framework of the United Nations and is an opportunity to progress with the active participation of the main stakeholders (parties, neighbouring countries and other interested parties) under the United Nations.

The Spanish Government has made a diplomatic effort to once again give the United Nations the leading role in this process in order to get past the difficult situation in which the conflict found itself.

The Spanish Government has significantly contributed to the effort made by the United Nations to reduce tension in the region by supporting measures to foster trust, such as increasing visits among Sahrawi family members and renewing the mandates of MINURSO to guarantee the presence of the United Nations in the area.

The Sahrawi population is a priority of Spanish Cooperation and over the last four years Spain has increased its aid to the point that it is now the number one donor country (after the ECHO Agency and the EU). Total Spanish aid in 2007 exceeded 20 million euro.

The Government is permanently watching the human rights situation in Western Sahara and in the Tinduf camps and has sent messages on numerous occasions about the importance of respecting these rights in accordance with domestic law and the main international legal instruments governing these matters.

In any case, I should mention that there is no better way of defending the rights of the Sahrawi people than by contributing to a permanent and satisfactory solution to the conflict and, to that end, the Government will continue making a concerted effort to achieve positive results from the current negotiation process”.

(*BOCG-Congreso D*, IX Leg., n. 82, p. 208).

b) Human Rights Defenders

In response to a parliamentary query posed on 06.11.08, the Spanish Government reported on measures devised to implement the EU Guidelines on Human Rights Defenders:

“Protection of human rights defenders is one of the main and inalienable principles of the Government’s external policy regarding the promotion and protection of human rights in the world. The Government fully supports the mandate of the Special Representative of the Secretary-General of the United Nations on the issue of human rights defenders and has lobbied for the preservation and strengthening of his mandate during the most recent renewal process. The Government also maintains an ongoing dialogue with non-governmental organisations that protect human rights defenders and with the latter themselves through the central services of the Ministry of Foreign Affairs and Cooperation (particularly the Human Rights Office and the Special Ambassador for human rights issues) and also through the network of Spanish embassies abroad that each year receive specific instructions to maintain contact with human rights defenders and specialised NGOs.

The EU Guidelines on Human Rights Defenders is a fundamental instrument for the protection of these persons and groups of persons and, over these last two years, the EU has undertaken concrete action throughout the world defending their right to defend their cause and calling on authorities to fully respect their activities. One of the campaigns receiving full backing from the

Government focused on the cause of women defenders taking account of the especially vulnerable position they find themselves in. Moreover, as part of the global campaign in favour of human rights defenders passed by the 27 EU Member States, a list of countries was drawn up for which a local strategy is to be implemented linked to the new EU Financial Instrument for the democratisation of human rights which Spain defended during the negotiation process of that Instrument.

It is vital that Member States contribute to the enforcement and strengthening of Guidelines and, as a token of the Government's commitment to the cause of human rights defenders, on 21 September 2007 Royal Decree 1257 was passed setting up a programme whereby the Government can host human rights defenders facing threat and give them protection until the cause of the threat forcing them to leave their country disappears and they are able to return to live a normal life and continue with their human rights defence efforts. No other EU country has a comparable programme and it has been praised by the main human rights NGOs in charge of protecting human rights defenders under threat and persecution".

(*BOCG-Congreso D*, IX Leg., n. 99, p. 546).

c) *Women's Rights*

In his appearance before the Security Council on 19.06.08, the Spanish representative Mr. Yáñez-Barnuevo, outlined Spain's position on the issue of "Women and peace and security":

"Almost eight years after the Security Council's unanimous adoption of, and in spite of greater awareness of the problem we are addressing today and improvements in prevention mechanisms, fully and effectively protecting women in conflict situations continues to be an unfinished task. Violations of the rights of women and girls in those situations continue to increase, despite the legal framework that the international community has put in place and the growing awareness of the severity of the problem. That awareness was reflected in the General Assembly's recent adoption of its resolution 62/134, on eliminating rape and other forms of sexual violence in conflict situations, of which Spain was a sponsor.

Responding comprehensively to the use of sexual abuse as a weapon of war continues to pose a challenge for the international community. Along with the ad hoc measures adopted in extreme cases in given peacekeeping operations, it is imperative that the United Nations decisively address the question of how to structure and institutionalize an efficient response by the international community to this very serious problem. Among other things, we need to wage a frontal war against the impunity that, in too many conflict situations, is enjoyed by those responsible for committing crimes against civilians, especially women and girls.

International law has appropriate mechanisms at its disposal. Among them, the Rome Statute of the International Criminal Court categorizes systematic rape

as a war crime and a crime against humanity and, in certain circumstances, even an act of genocide. Universal accession to the Rome Statute would be a crucial step towards combating impunity; as is the implementation of the principle of universal justice by States that have incorporated that principle in their legislation, as Spain has.

With regard to my country, and in the broader framework of the policy of equality that my Government has promoted and strongly defends, in November 2007 Spain adopted a national action plan to implement resolution 1325 (2000) within the context of the objectives of Spain's organic law for effective equality between men and women. In line with resolution 1325 (2000), Spain's action plan reflects the beliefs that peace is inextricably linked to equality between men and women and that women's equal access and full participation in power structures and their complete involvement in efforts to prevent and resolve conflicts are essential for the maintenance and promotion of peace and security.

In that regard, allow me to briefly refer to some of the measures that the Government of Spain has adopted to respond to the pending challenges. Those measures focus on six basic objectives: promoting the presence of women in peace missions in which Spain participates; mainstreaming the gender perspective in all phases of those missions; specific gender training of personnel participating in missions; full respect for the human rights of women and girls in conflict situations; promoting the principle of equality in disarmament, demobilization and reintegration processes; and promoting greater participation by civil society groups in this area.

Spain supports the establishment of special units within peacekeeping missions to specifically cater for women and girls who have been victims of sexual violence. Such units should be composed of specialized personnel and, moreover, should serve as coordination centres for the activities both of the United Nations system and of the donor community as a whole.

With regard to cases where crimes against women and girls have been committed by personnel of United Nations peace missions, the Organisation has now begun to provide an integrated response to the problem. In that connection, we welcome the General Assembly's recent adoption of its resolution 62/214, the Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel. The Government of Spain firmly supports the zero-tolerance policy on this matter.

Spain is determined to promote new efforts to implement the provisions of resolution 1325 (2000). We are also finalizing an action plan on women and peace building aimed at all actors participating in Spain's system of cooperation for development. The plan, which will not disregard the status of women as specific potential victims of violence, will highlight the particular importance of women as contributors to the peaceful settlement of conflicts.

In a similar vein, the third meeting of African and Spanish women working for a better world – which took place in Niamey last May under the sponsorship of the Governments of Spain and Niger and which included the participation of women leaders and representatives from most African countries, as well as

international bodies – adopted a final declaration that, among other things, stated that the role of women in peace building and conflict prevention processes must be recognized and supported, including through the implementation of resolution 1325 (2000).

The Niamey meeting also called for the establishment of a multi-donor gender and development fund that would be managed by the United Nations Development Fund for Women. Spain will contribute 50 million to that fund.

In conclusion, Spain fully supports the draft resolution before the Council, of which we are a sponsor. We hope that it will be adopted unanimously”.

(S/PV.5916 (Resumption 1), pp. 2–3).

4. Nationality

a) *Western Sahara*

In response to a parliamentary query posed on 11.11.08, the Spanish Government reported on measures for the recognition of Spanish nationality for Sahrawi citizens who were originally Spanish nationals, by filing to formalise their Spanish nationality at the civil registry:

“Persons born in Western Sahara when that territory was under Spanish rule were not officially Spanish nationals but rather Spanish subjects who enjoyed the benefit of Spanish nationality. This is the reason why Sahrawis were given the opportunity to opt for Spanish nationality within a period of one year as from the entry into force of Decree 2258/1976 of 10 August 1976. If they had been Spaniards, it would not have made sense to give them the right to opt for Spanish nationality.

This option was granted to all those born in the Sahara who, at that time, were residing in national territory and had “general Spanish documentation” and those who, residing outside of Spanish national territory, had a Spanish passport or were on the rolls of the Registries of Spanish representations abroad.

In its decisions the Ministry of Justice has determined that those Sahrawis who remained in the territories occupied by Morocco in the aftermath of Spain’s leaving, would not have that option. In contrast, those who left for Algeria or Mauritania could exercise that right. As a result, applications to formalise Spanish nationality are generally accepted if the party in question can certify that during the period of validity of Decree 2258/76 they remained in the territories occupied by the Moroccans while all other cases are dismissed.

It should also be pointed out that one may apply for Spanish nationality under the reduced one-year residency clause of Article 22(2) a) of the aforementioned Decree if they were born in Spanish territory, i.e. those born in the former Spanish Saharan territories during the period of Spanish rule, given that they were Spanish territories”.

(*BOCG-Congreso D*, IX Leg., n. 102, p. 37).

VI. STATE ORGANS

In response to a Senate query on the Government's plans to reform the external service, the Government made the following explanation on 21.10.08:

“First of all, the absence of a law regulating the sphere of action of the State's External Missions in general, not only the means of External Missions but external action as well, has been pending since the time of the transition to democracy. We do not yet have this legal regulation. I believe that the circumstances of the 21st century and the internal evolution of our country make it essential to now adopt and adapt the policies by which we implement our external action.

As you correctly indicated, we have already taken steps in that direction. There is an agreement linking different provisions regarding the strengthening of our diplomatic and consular deployment, human resources, material means to do this, etc. All of this is related to an increase in the number of openings in the Diplomatic School, the 50 diplomats, although I do not have the information at hand to respond to each and every one of the aspects included in the agreements which are not, per se, a reform of External Missions but rather form part of the periphery of that reform of External Missions, a reform which should be more centralised. During the last term, as you pointed out, we made some interesting progress in that direction.

Now our commitment is focused on presenting a draft law to regulate the sphere of the State's external action, its External Missions, during the course of this legislative term. That is the commitment we have made and we hope we can count on your collaboration to move forward with this draft law regulating external action and External Missions.

I would like to conclude by pointing out that this particular issue, reform of External Missions, forms part of the Decalogue that the Minister of Foreign Affairs and Cooperation proposed in prioritising parliamentary consensus among all groups to advance in that direction”.

(DSS-C, IX Leg., n. 69, p. 26).

VII. TERRITORY

1. Territory Division. Borders

Note: See VIII. Seas, Waterways, Ships; X.1.a) *Marine Pollution*; and XI. Legal Aspects of International Cooperation

On 30.09.08, in response to a Congressional query, the Government reported on border control measures in operation to detect illegal immigrants:

“Aliens entering Spanish territory by way of border posts (land, air or sea) from a third country which is not a signatory state of the Convention Implementing the Schengen Agreement, are subject to a documentary check to make sure

they meet the requirements laid down in alien law allowing access to Spanish territory. To do this, border personnel have document verification equipment at the border as well as the Advance Passenger Information System. These checks are made at the border posts located throughout national territory.

Also, to monitor Spanish territorial waters and adjacent areas, we have the Integrated External Surveillance System (SIVE), an operational device providing real time information to the Command and Control Centres from where orders are given for the interception of any element liable to illegally enter the territory of the European Union.

In addition to the permanent stations located in the provinces of Huelva, Malaga, Cadiz, Almería, Las Palmas and the City of Ceuta, there are 13 mobile surveillance units located in the Balearic Islands (3), Tenerife (2), Las Palmas de Gran Canaria, Huelva, Ceuta, Alicante, Murcia, Valencia, Castellón and Tarragona, distributed along the coast according to operational needs and basically reinforcing the Mediterranean area.

SIVE control is supplemented with marine intervention by the Maritime Service of the *Guardia Civil* and on land by the coastal surveillance units.

Also with a view to preventing access to Spanish territory by aliens seeking to enter the country illegally, and to intensify the fight against criminal organisations trafficking in human beings, the European Border Agency (FRONTEX) has been developing a series of control devices for our external borders, mainly where illegal immigration is most prevalent. A number of different operations have been undertaken to bolster surveillance and control using aerial, maritime and other means.

Regarding aliens returned and rejected beforehand, I should point out that in compliance with the provisions of the Organic Law on the rights and freedoms of aliens in Spain and their social integration, the legal concept of return is applied to those aliens who, having first been expelled, illegally re-enter or attempt to re-enter Spain.

Other aliens who arrive to a proper border post and are denied entry into national territory for failing to meet the requirements provided for in applicable laws are refused entry and returned”.

(*BOCG-Congreso-D*, IX Leg., n. 89, pp. 211–212).

Having regard to the mobile controls along the land border between Spain and France to control the possible illegal entry of persons, on 10.10.08 the Government made the following clarification:

“The Convention Implementing the Schengen Agreement stipulates freedom from personal checks when crossing internal frontiers thus establishing an area free of internal frontiers where the free movement of persons is guaranteed.

Taking account of the foregoing, “permanent check posts” cannot be set up but rather, as provided in the Schengen Borders Code (Regulation 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders), the removal of checks at internal frontiers does not preclude inspections within the territory

providing these are based on information and general police experience regarding possible threats to public security and specifically target cross-border crime.

To this end, Spanish National Police officials have set up document check points in France and, as a result, have detected aliens trying to enter Spain via France who do not meet entrance requirements. In these cases, they have applied the provisions of the Readmission Agreement signed by France and Spain resulting in a request to France to readmit the alien into its territory.

Also, enforcement of the Cross-border Cooperation Agreement on Criminal and Fiscal Matters between the Kingdom of Spain and the French Republic done at Blois on 7 July 1998 and in force as from 1 September 2003 through existing police and customs cooperation centres between France and Spain at Canfranc-Somport-Urdos-Melles Pont do Roy-Les-Le Perthus-La Junquera-Biriatou-Irún, joint French-Spanish mobile checks are conducted (mixed patrols) at least once weekly to locate persons who are in the country illegally in accordance with respective alien laws and liable for readmission back to either of the two States”.

(*BOCG-Congreso-D*, IX Leg., n. 99, pp. 599–600).

2. Colonies

Note: See X.1. a) *Marine Pollution*

a) Gibraltar

In response to a parliamentary query posed in Congress, on 27.06.08 the Government reported on the arrival of nuclear powered vessels and/or vessels carrying nuclear arms to the Port of Gibraltar:

“The inland waters of the Port of Gibraltar were ceded by the King of Spain to the British Crown through the Treaty of Utrecht in 1713. Spain has no jurisdiction over these waters and cannot restrict their use.

The United Kingdom informs the Spanish Government of movements of military ships in Gibraltar through regular channels. However, this information is classified and handled confidentially and is not made public before the stopover.

The Government is aware of the keen concern among Spanish public opinion that stopovers be made with maximum guarantees of security and our priority is to guarantee the safety of the population of Campo de Gibraltar. To that end, the Environmental Radiological Surveillance Plan includes, among other measures, Operational Radiological Surveillance Groups of the Navy that are activated 48 hours before the docking of any nuclear-powered vessel in Gibraltar and check sediments, marine organisms, air, water and measure radiation directly.

From 2004 to the present, 16 nuclear-powered submarines have docked at the Port of Gibraltar, approximately three per year, with an average stay in the vicinity of three days. The only exception to this rule was the submarine HMS “Tireless” which was docked at that port for repairs in 2001 and 2002”.

(*BOCG-Congreso-D*, IX Leg., n. 57, p. 238).

In response to a parliamentary query formulated in Congress having regard to Spanish control of the waters surrounding Gibraltar, on 15.09.08 the Government made the following clarification:

“...Spain has not ceded to the United Kingdom additional areas others than those specifically stipulated in Article X of the Treaty of Utrecht which does not include the waters surrounding Gibraltar with the exception of the waters of Puerto del Peñón. This position was confirmed upon ratification of the 1982 United Nations Convention on the Law of the Sea and, subsequently, each time the issue of the sovereignty of these waters has arisen either bilaterally or at any international forum”.

(*BOCG-Congreso-D*, IX Leg., n. 82, p. 169).

In response to a parliamentary query formulated in Congress concerning the sinking and rescue of the vessel *New Flame*, on 03.07.08 the Government affirmed that:

“In the context of cooperation through the Forum for Dialogue on Gibraltar to address problems that could affect the population of Campo de Gibraltar and Gibraltar, and considering that the chain of events giving rise to the *New Flame* accident began in the Port of Gibraltar, i.e. outside of Spanish jurisdiction (the *New Flame* had departed from the Port of Gibraltar without the permission of the Colony’s Maritime Port Authority), Spain took the position that the United Kingdom and Gibraltar authorities were responsible for ship rescue operations.

The United Kingdom and the Gibraltar authorities were also clearly informed from the very beginning that subsequent operations undertaken by the authorities of Gibraltar concerning the rescue of the *New Flame* would, under no circumstances, affect Spain’s past, present or future stance on the sovereignty and jurisdiction of the waters in which the collision took place and could not be construed as acknowledgement of British sovereignty over the said waters. This stance was made perfectly clear in verbal notes from the Ministry of Foreign Affairs and Cooperation to the British Embassy in Madrid.

From the beginning the United Kingdom was asked, as responsible at international level for Gibraltar, to keep the Spanish authorities informed as to rescue operations taken, to take part in said operations and to increase the transparency of these actions, even through meetings with Spanish, British and Gibraltar experts and to monitor scrap operations of the remains of the *New Flame*. The Spanish Government and the Andalusian Regional Government offered the United Kingdom and the Gibraltar authorities our collaboration and all available equipment for the rescue and fight against any ensuing marine pollution. This offer of aid was rejected. Concurrently, from the beginning of the crisis, the Spanish Government and the Autonomous Community of Andalusia activated all measures to prevent the risk of pollution in the region.

And lastly, we will soon be addressing maritime safety issues in the area through the Forum for Dialogue on Gibraltar, and the way to manage future maritime accidents with possible environmental impact on the region as in the case of the *New Flame*”.

(*BOCG-Congreso-D*, IX Leg., n. 57, p. 235).

In response to a question posed in Congress on documentation and identification required for passengers using the Gibraltar airport, on 26.09.08 the Government reported that:

“Under the terms of the Ministerial Declaration of the Forum for Dialogue on Gibraltar of 18.09.06 regarding the airport, passengers who arrive to the airport of Gibraltar from another Spanish airport and who proceed to La Línea de la Concepción, will exit from the future passenger terminal building by way of the direct access which that terminal will have, from the north side of the gate, and will be treated as if they had never left national territory. In other words, these passengers will not be subject to any police or customs control by Spanish or Gibraltar authorities, the flight being considered domestic.

However, it was also agreed in that Ministerial Declaration to move forward the opening of air traffic between the airport of Gibraltar and other Spanish airports before implementing the definitive system governing these flights and before the new passenger terminal comes into service. During this transition period and until the new airport terminal building is up and running, passengers arriving in a flight from other Spanish airports can take a bus upon descending from the plane, provided during the period of application of this system, to make the transfer to the north side of the gate and on to the bus station at La Línea de la Concepción. This transfer is made without having to go through any immigration or customs checks. However, if the said passengers have checked luggage that, for reasons of airport handling of luggage from outside of the territory of the Customs Union had not been checked by the Spanish customs service, the said luggage must undergo customs checks just like any other luggage coming from outside of the common customs area.”

(BOCG-Congreso-D, IX Leg., n. 89, p. 215).

In response to a parliamentary query formulated in Congress concerning the project for the future tunnel under the Strait of Gibraltar, on 20.10.08 the Government clarified that:

“Studies on the permanent link of the Strait of Gibraltar commenced following the Bilateral Cooperation Agreements signed by Morocco and Spain on 24.10.80 and on 29.07.89. A Spanish-Moroccan Joint Committee manages and supervises the studies carried out by the public companies SECEG (Spain) and SNED (Morocco). The aim of these agreements is to study the feasibility of this permanent link and to propose, as the case may be, a concrete alternative.

The complexity of a permanent link can be appreciated judging from the approximately 440 studies conducted to date in the areas of engineering (tunnels and environmental structures), physical medium (cartography and geodesy, geology and geotechnics, oceanography, seismology, meteorology, etc.) and socio-economic medium (formation of databases, transport and traffic, economy, legal, financial, territorial, etc.).

In 1995 the Spanish-Moroccan Joint Committee decided that, from among the different alternatives considered, the most advisable was a railway tunnel.

As from 1996, studies have focused on gaining greater insight into the geology and geotechnics of the area in order to confirm the feasibility of building a tunnel...

(...)

At the most recent Joint Committee meeting held in Rabat on 30.01.08, the two public companies (SECEG and SNED) were entrusted with “drafting an assessment report of all of the studies conducted”. This report will be submitted to the Joint Committee presumably in 2009.

(...)

The effects of an eventual fixed link appear to be positive, not only for the two countries directly involved but also for the development of a Mediterranean transport network and to improve connections between Europe and Africa. That is why the Spanish and Moroccan Governments have submitted the project to the European Commission and are conducting the aforementioned studies, i.e. the “Traffic Forecast Study through the Fixed Link” and the “Study on the Regional Effects of the Rail Tunnel under the Strait of Gibraltar”, both to be completed this year”.

(*BOCG-Congreso-D*, IX Leg., n. 114, pp. 370–371).

VIII. SEAS, WATERWAYS, SHIPS

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

1. High seas

Note: See IX. *International Spaces*

2. Fisheries

Note: See IX. *International Spaces*

In response to a parliamentary query posed in Congress on agreements between Spain and Portugal allowing tuna vessels to fish in the Madeira archipelago, on 30.07.08 the Government reported as follows:

“The Agreement on activity of the artisanal fishing fleet of the Azores, Madeira and Canary Islands provides for the fair exchange of fishing rights between Spain and Portugal for the aforementioned fleet of these Autonomous Regions allowing for the catch of tuna by Canary Island vessels in the waters of Madeira and the Azores and of black scabbardfish by vessels from the Portuguese archipelagos in waters of the Canary Islands. This exchange of rights shall apply to a base list comprised of 38 vessels with 15-day rotations of the vessels with a maximum of 18 vessels at any one time during each period.

It also calls on both countries to apply Community and national technical regulations that each contracting party has adopted in their waters for their national vessels. In practice, this obligation has caused problems for Portugal because Spanish law corresponding to the waters of the Canary Islands imposes more restrictive technical measures than those that apply in Madeira and the Azores to their ships in their waters but which they must respect while fishing in Canary Island waters.

The Agreement calls for provisional application as from the date of reception of the last notification informing that the necessary conditions have been met by both parties in accordance with their respective domestic laws.

As for Spain, last April the Technical Secretariat-General of the Ministry of Foreign Affairs and Cooperation issued instructions to the Directorate-General for International Economic Relations and Energy Affairs to communicate, via Verbal Note to the Embassy of Portugal in Madrid, that it is ready to provisionally apply the Agreement which will become effective once a similar Verbal Note is received from the Portuguese authorities”.

(BOCG-Congreso-D, IX Leg., n. 65, p. 286).

3. Ships

Note: See IX. International Spaces and X.1.a) *Marine Pollution*

In response to a parliamentary query posed in Congress on plans to assist vessels in emergency situations, on 09.06.08 the Government reported as follows:

“The European Parliament and the Council approved Directive 2002/59 of 27 June, the most important initiative taken for the implementation of a standardised European system for the control of maritime navigation with a view to enhancing security and the prevention of marine environment pollution.

Transposition of that Directive into Spanish domestic law was initiated by the Fiscal, Administrative and Social Order Act, Law 62/2003 of 30 December 2003 and completed by Royal Decree 210/2004 of 6 February 2004 which also implements the mandate contained in the said Law regarding the establishment of criteria and rules which the maritime authority must adhere to when authorising the entry of a vessel in need of help into a refuge area.

The delay in effective compliance for the final approval of these plans on the part of all European countries, whose causes are attributable to the difficulties encountered in establishing standard procedures for the different national plans, has sparked European Union efforts over the last several years to amend Directive 2002/59/EC.

In this connection the European Commission submitted a draft Directive in November 2005 to amend Directive 2002/59/EC where, among other changes, it addressed the amendment of Article 20 on the reception of vessels in places of refuge.

This new draft Directive, which seeks to give greater clarity to plans for the reception of vessels in danger by standardising action procedures and responsibilities of the competent authorities, is currently undergoing approval. In 2007 the Council adopted a Common Position on this proposal that includes a few modifications of the original text and was sent to the European Parliament for a second reading within the framework of the co-decision procedure. It could be approved at the end of this year or at the beginning of next year.

However, it is important to point out that during all of this time the Spanish Government has been adopting different measures and regulations of great importance in the area of maritime security”.

(*BOCG-Congreso-D*, IX Leg., n. 45, p. 109).

IX. INTERNATIONAL SPACES

In his appearance before the Congressional Foreign Affairs Commission of the Congress of Deputies on 22.05.08 the Ministry of Foreign Affairs, Mr. Moratinos Cuyaubé, responded as follows to a parliamentary query on the action of pirate ships against Spanish fishing vessels in international waters off the coast of Somalia:

“...Since the end of the governmental regime of General Barre in 1991, Somalia has been immersed in a deep political, social and humanitarian crisis stemming from the conflict between federal transition authorities with the backing and legitimacy of the international community but lacking the means to control their land, air and sea territory, and the Islamic militias and the so-called warlords organised as clans. This scenario is rounded out by the Ethiopian troops supporting the transition government and the peacekeeping forces of the African Union, Amisom, comprised of soldiers from Uganda and Burundi, which are overwhelmed by the magnitude of the conflict and are incapable of controlling the situation.

Owing to this situation of profound instability which is a breeding ground for the proliferation of pirate activity and, according to the reports drafted by the committee created under United Nations Security Council Resolution 751, a situation where warlords and Somalian tribal leaders have been selling fishing access and exploitation rights, as from 01.07.06 the Secretariat-General of Maritime Fisheries prohibited Spanish fishing vessels from all fishing activity in the Somalian Exclusive Economic Zone. At that time we rejected the possibility of sending a Spanish frigate to support the tuna fleet for the reasons already given by the former Secretary of State for Foreign Affairs in his appearance in October which I will remind you of presently: first of all because of the inefficiency of an isolated measure such as this in light of the size of the area to be covered and the impossibility of rotations that would entail long periods during which the frigate would be inoperable; and secondly, and in my view very important, because of the lack of a suitable legal framework in the absence of a Security Council resolution.

...these circumstances ruled out the unilateral deployment of the Spanish navy in Somalian waters, circumstances which today, fortunately, are improv-

ing and in part this is due to the efforts of Spain. The foreseeable adoption over the next several days of a Security Council resolution will legitimise the deployment of a multilateral force with the necessary mandate and muscle to put an end to piracy in Somalia.

...as soon as the Spanish Government got word, on the afternoon of April 20th, of the hijacking of the tuna vessel *Playa de Bakio* at a distance of 239 miles from the Somalian coast and hence outside of the Exclusive Economic Zone, it took a number of diplomatic and military steps with the overarching objective of freeing the vessel and its crew as swiftly as possible while safeguarding the lives and physical integrity of the 26 crew members, 13 Spanish and the other 13 of different African nationalities.

A crisis cell was immediately formed chaired by the Government's first Vice-president as well as a permanent information and monitoring body formed by representatives of the Ministries of Foreign Affairs and Cooperation, Defence, the Environment and Rural and Marine Affairs, in addition to the President's Office. The family members of the Spaniards taken hostage were kept abreast of developments by the Ministry of Foreign Affairs and Cooperation on the state of the situation and were given the chance to communicate their concerns.

In the political and diplomatic arena, the Government immediately contacted the Somalian Federal Transitional Government through the Prime Minister, Mr. Nur Adde. That same day (the day following the capture of the ship), the Ambassador of Spain in Kenya, also holding credentials in Somalia, travelled to Mogadiscio to hold ongoing and fluid talks with Prime Minister Nur Adde and the rest of the Somalian authorities and with the representatives of the African Union and the Amisom Mission and other international bodies present there.

Here before Parliament I wanted to make a personal reference and congratulate Ambassador Nicolás Martín Cinto for his work and contribution. I feel that he did an excellent job and all of us should acknowledge his good work. Concurrently, the Government and especially the Ministry of Foreign Affairs and Cooperation made all possible diplomatic efforts to rally the support of our influential partners present in the region such as France, the United States and the United Kingdom and different multilateral organisations.

Within the framework of the United Nations, Spain led the formation of a lobby group of friendly countries with interests in the area that are not currently members of the Security Council: Australia, Canada, Denmark, Germany, Greece, Japan, Korea, The Netherlands and Norway, to join forces in the adoption of a Security Council resolution based on a joint French-US draft document and in response to the urgent call from the Transitional Federal Government of Somalia, setting the stage and providing the necessary legal coverage for the creation of a strong and effective deterrence mechanism to combat piracy in Somalian waters. This informal group is collaborating with the Security Council at two different levels: by helping to negotiate the text of the resolution defending its fundamental elements and cooperating to overcome the difficulties that always arise in the discussion of Security Council draft resolutions, and also by forming a solid group of States firmly committed to supporting the objectives of

the resolution and facilitating its enforcement. During the process of drawing up the resolution, Spain has maintained close coordination with France and the United States which are very grateful for the efforts made by Spain in helping to overcome difficulties in the negotiation.

Within the European Union, Spain introduced a point on piracy in Somalia on the agenda of the General Affairs and External Relations Council held on 29 April last with a view to urging the European Union to lend all of its support to the establishment of a collective security system within the framework of the United Nations. In this connection, Spain petitioned the Slovenian Presidency to call a meeting in New York in accordance with Article 19 of the Treaty of the Union in order to offer political support to the resolution under negotiation and to explore alternative formulae to contribute to its subsequent practical enforcement. Also upon request by Spain, the Council formally petitioned the Secretariat-General to prepare a report on the possible ways in which the European Union could contribute to the implementation of the resolution once adopted by the Security Council. Spain also re-launched an awareness-raising campaign within the sphere of the International Maritime Organisation for the adoption of legislation to safeguard international maritime security, to combat piracy and to protect fishing vessels.

In conjunction with all of these diplomatic and international efforts, the Government has military presence in the area comprised of the frigate Méndez Núñez, a reconnaissance plane and other support aircraft so as to be able to adequately monitor events and as a deterrent and in preparation for any circumstance. In any case, I would like to stress that Government actions have always been driven, from the very outset, by the overarching objective of recovering all of the crew members safe and sound. Intense efforts are also being made to prevent situations such as the hijacking of the *Playa de Bakio* in future and to bring the perpetrators to justice in accordance with the law.

...This overarching objective was met when, on the afternoon of the 26th, the hijackers of the *Playa de Bakio* abandoned the ship and freed the crew and the ship was able to proceed to the operational base of the tuna fleet in the Seychelle Islands from where crew members were airlifted to Spain on a Spanish Air Force plane. Multilateral efforts made by Spain are also producing fruit and over the next few days we expect the United Nations Security Council to adopt the resolution against piracy in Somalia that I referred to earlier. I would like to underscore the fact that the Government, as has been explained on earlier occasions, firmly believes that the only effective, legitimate and sustainable solution over the long term is coordinated action on the part of the international community within the framework of the United Nations and with the backing of the Transitional Federal Government.

In this connection, the Government is putting together an action plan to combat piracy which focuses on the Somalian problem but which could be applied more broadly and which will have the following main lines of action. Firstly, the development and effective enforcement of a suitable legal framework, encompassing the European Union, and domestically fostering a possible reform

of criminal and procedural law to bolster the legal instruments with which to combat piracy.

Secondly, the creation of effective mechanisms, under the mandate and authority of the United Nations and upon request by the local authorities (in the case of Somalia, the Transitional Federal Government), to prevent, prosecute and combat this threat. The said mechanisms could require force in accordance with Chapter VII of the United Nations Charter and, given that this would be a multilateral force, rotation of soldiers can be guaranteed. Hence, once the Security Council's resolution has been adopted, the Government will look into how Spain could contribute to these mechanisms.

Thirdly, provide technical assistance to the coastal States affected so that they have the necessary means with which to fulfil their duties in the control and surveillance of maritime areas. In this connection, we will look for the best way to assist the Somalian authorities in accordance with requests received to reinforce its own capacity including, as appropriate, possible support through multilateral bodies such as the UNDP which has a programme focusing on the institutional strengthening of security matters in Somalia.

Fourth, contribute to resolving domestic conflicts or crises which, in the case of Somalia, foster piracy activities and the impunity of the perpetrators. Specifically, Spain will increase its support for international mediation within the framework of the United Nations in Somalia and will continue to lobby for greater engagement on the part of the European Union to resolve the Somalian conflict in coordination with the United Nations and the African Union. To this end, Spain has just recently earmarked 30 million euro, some of which can be spent on activities related to the Somalian process.

Fifth, increasing our aid focusing on the development of Somalia in the most effective way possible, and especially in the area of humanitarian assistance through the World Food Programme and by helping refugees and internally displaced persons through the UNHCR, two sectors where urgent action is needed. We will also analyse possible recourse to the thematic window for peace-building as part of the Spain-UNDP Fund.

Lastly, the adoption of measures, including technical assistance, addressing piracy and other forms of organised crime such as unlawful arms trafficking or even the fight against international terrorism.

Members of Parliament, allow me to conclude by underscoring the sense of responsibility with which the Government has always addressed the problem of piracy in Somalia in close contact with Spanish ship-owner associations. It is this responsibility which has set the stage for a timely and acceptable resolution against the hijacking of the *Playa de Bakio*.

Our objective now is to make sure that acts such as these do not go unpunished and do not happen again. This is what is guiding the major effort now being made in the United Nations and jointly with our European partners and which will soon give rise to the adoption of a new international legal framework and new powerful and effective control instruments with which to combat piracy".

(DSC-C, IX Leg., n. 27, pp. 31–33).

Lastly, in response to a parliamentary query posed in Congress on the lack of security facing the Somalian tuna fleet and measures to be taken, on 03.11.08 the Government reported that:

“...the Government feels that actions taken against piracy in the Indian Ocean should be multilateral. To that end, it has promoted and backed United Nations initiatives and has raised, together with other Community partners, the possibility of a European Union Common Defence Policy (CDSP).

In this connection, in addition to participating in the European Union’s coordination cell, it has sent a marine patrol plane to the area for an initial period of three months. The first operational flight over Indian Ocean waters took place on 24 September.

In response to a request from the United Nations, the Atlantic Alliance sent the SNMG-2 Naval Force to the area and it crossed the Suez Canal last October 15th on its journey. This force is entrusted with protecting World Food Programme ships and discouraging piracy.

Also, specifically in compliance with the Action Plan against Piracy in Somalia adopted by the Government this past June, intense diplomatic activity has contributed to slowing down this phenomenon in four areas.

First of all, within the sphere of the United Nations, Spain has supported and co-sponsored two Security Council resolutions. Resolution 1816, unanimously adopted on June 2nd, allows the use of “all necessary means” to suppress acts of piracy and armed robbery in compliance with respect for international law in the waters off the coast of Somalia. In the drafting of this Resolution, Spain also contributed to the creation of a group of like-thinking countries including Germany, Australia, Korea, Denmark, Greece, Japan, Norway, the Netherlands and Canada.

Resolution 1838 of 7 October, also adopted by unanimous decision, again condemns acts of piracy and armed robbery in Somalian waters and urges states to play an active role in combating piracy in the region using “necessary means”. Spain will work jointly with the group of like-thinking countries so that Resolution 1816 is extended at the conclusion of that six-month period.

Within the sphere of the European Union and in collaboration with France, the fight against piracy in Somalia has received an effective boost. The General Affairs and External Relations Council (GAERC) at its meeting on 15 September called for the creation in Brussels of a Coordination Cell headed by a Spanish navy captain to support the military activity of certain Member States for the surveillance and protection of sailing off the coast of Somalia. At that same meeting, the GAERC approved a strategic military option for an eventual EU naval mission whose plans are quite advanced. Diplomatic arrangements are under way so that the said naval mission can be approved as swiftly as possible.

Spain has also been very active on the diplomatic front with coastal countries and other stakeholders to raise awareness about the problem of piracy off the coast of Somalia and to ask about possible participation in a future naval mission.

Spain has taken action to stabilise Somalia in the understanding that only a strong State is capable of guaranteeing security in its territory and its jurisdictional waters. It has done this through its ongoing support of efforts made by the Transitional Federal Government in favour of national reconciliation at fora such as the African Union. Very fluid conversations have also been maintained with the top authorities of that Government. Special mention should be made of the visit to Madrid last June of its Prime Minister which led to commitments made by Spain to provide humanitarian assistance and support for reform of that country's security sector".

(*BOCG-Congreso-D*, IX Leg., n. 120, p. 636).

X. ENVIRONMENT

Note: See VII.2.a) Gibraltar

1. Protection of the Marine Environment

a) Marine Pollution

On 16.10.08, the Government responded as follows to a query posed in Congress on action planned in response to marine catastrophes:

"The complexity of preventing and combating marine pollution calls for a global and comprehensive approach focusing not only on actions at sea but also on measures taken along the coast and coordination between the two.

The response model for marine incidents endangering the environment is defined in the response plans and protocols currently in force. These plans include the National Contingency Plan for Accidental Marine Pollution approved by Order of the Ministry of Infrastructure and Transport and the territorial plans for marine pollution that the different coastal Autonomous Communities have passed over the last several years.

The National Plan includes recommendations encouraging the Autonomous Communities to draw up territorial plans providing for inter-administrative and inter-territorial coordination. In accordance with these recommendations and with advice received from the management centres of the different ministerial departments involved in these plans, the necessary collaboration and coordination mechanisms between the different public administrations are devised. Over the last several years territorial plans to combat marine pollution have been passed or are being drafted in the Balearic Islands, Catalonia, the Canary Islands, Murcia, Valencia, Andalusia, Galicia and Asturias.

In the response system devised in the aforementioned plans, management, leadership and decision-taking in the event of a marine catastrophe with risk of pollution correspond to a governing body comprised of the Government Delegate in the Autonomous Community affected and the director of the territorial plan activated, typically the competent Regional Minister. In the event that the plans

of several Autonomous Communities are activated, the governing body would be comprised of the directors of the territorial plans activated plus a representative of the General State Administration.

As concerns the reorganisation of the Centre for the Prevention and Combating of Coastal Marine Pollution (CEPRECO), the recent restructuring of the ministry and the attribution of the duties of the centre to the Ministry of the Environment and Rural and Marine Affairs does not mean that it will cease to exist but just the opposite, given that the performance of these duties is reinforced by their assignment to the Secretariat-General of the Sea where responsibilities for protection of the sea which used to be dispersed among different ministerial departments are now concentrated.

The Government, aware of the importance of fostering prevention and combating marine coastal pollution, created a specialised centre in November 2004 and, sensitive to the marine pollution accidents suffered by Galicia, announced its commitment to exempt its headquarters in Galicia from the planned administrative reorganisation.

As for coordination with the Government of Galicia, in addition to the aforementioned mechanisms, since September 2006 a Collaboration Agreement has been in place between the Regional Government of Galicia and the Ministry of Infrastructure and Transport to coordinate maritime rescue operations and jointly combat pollution. Thanks to this Agreement, personnel from the two administrations engage in ongoing joint exercises of which special mention should be made of the national anti-pollution exercise carried out in the Vigo estuary in April 2007 with the collaboration of personnel and equipment from the Maritime Safety and Rescue Agency (SASEMAR) of the Ministry of Infrastructure and Transport and the Department of Fisheries and Maritime Affairs of the Regional Government of Galicia”.

(*BOCG-Congreso D*, XI Legislatura, n. 85, pp. 64–65).

Also, measures taken to coordinate the participation of the Government and scientific communities in the taking of decisions in the event of maritime emergencies or catastrophes, such as the *Prestige* disaster, were the subject of a parliamentary query to which the Government responded on 20 November:

“...In 2007, with the support of the then Ministry of Education and Science, the PREVECMA Network (technological network for the prevention of and response to marine spills and pollution) was launched, promoted initially by the Technological Centre for the Sea (CETMAR) based in Vigo (coordinating the Network), the Scientific Research Council (through the Marine Research Institute in Vigo), State Ports (Ministry of Infrastructure and Transport) and the Spanish Oceanographic Institute (IEO).

The aim of the Network is to create a multi-disciplinary think-tank comprised of experts, enterprises, scientific organisations and sectors of the Administration related to the promotion of R&D for the prevention, response, mitigation and minimisation of the environmental and socio-economic impact of maritime catastrophes in general and oil spills and the leakage of other hazardous sub-

stances transported by sea in particular. One of the many specific objectives is, for example, “to provide instruments to help in the taking of decisions and in preparing and revising regional and local contingency plans in the event of spills”.

The Network has an operational portal to help in gathering, centralising, updating and disseminating relevant information and documentation having to do with pollution caused by marine spills.

One of the working groups in operation focuses on “Systems for the detection, monitoring and modelling of spills”.

The main research centres related to this topic are already participating in the Network: The Scientific Research Council (CSIC), the Spanish Oceanographic Institute, CEDEX and INTA; interested universities such as Vigo and the *Politécnica de Madrid* and administrative bodies such as State Ports, Maritime Rescue, the Directorate-General of the Merchant Marine, different port authorities and others.

Also, the Spanish Geological and Mining Institute (IGME) has put together a project on the sinking of the *Prestige* in collaboration with the Institute for Sea Sciences of the CSIC in Barcelona, the University of Vigo and the University of Cadiz.

This project focuses on the comprehensive study of the sedimentary stratigraphic, neotectonic, geochemical and geotechnical morphology of the area around the sinking of the *Prestige* in order to identify hazards that could affect the stability of the area around the site such as underwater slides, neotectonics, differential compacting, erosion caused by seabed currents and to define the footprint of fuel on the seabed by applying reflectivity data of multiple beam probes before and after the spill as a novel and experimental technique. The project, which commenced in 2003, is scheduled to conclude in December of this year and will cost approximately €500,000”.

(*BOCG-Congreso D*, IX Leg., n. 109, p. 557).

The environmental checks conducted as a result of the damage caused by the sinking of the vessel *New Flame* were the topic of a query posed in Congress. The Government responded to that query on 21 November in stating:

“The spill resulting from the sinking of the vessel *New Flame* mostly affected public domain port assets belonging to the Algeciras Bay Port.

However, Cadiz Coastal Demarcation took responsibility for the cleanup and removal of oil from the coast.

Also, while part of the public port domain, the Coastal Surveillance Service and the cleanup and maintenance crews of the maritime-land public domain conduct periodic checks within the affected area to make sure that there is no new leakage and that the status of the affected areas has not changed as a result of the preceding spill.

The Government has kept a close watch on all of the measures taken to transfer the waste of the *New Flame* which originated in Gibraltar and were headed for Spain.

Regulation 1013/2006 on waste transfer is applicable to Gibraltar given that it is based on Article 175 of the Treaty establishing the European Union with the aim, as set forth in its first recital, of protecting the environment, its effects on international trade being merely incidental.

Article 53 of the said Regulation provides that the Member States are required to designate the competent authorities. In the Kingdom of Spain this designation is established in Article 4 of the Waste Act, Law 10/1998:

4.21. "It is the responsibility of the Autonomous Communities to draw up regional waste plans and to oversee the authorisation, surveillance, inspection and sanctioning of activities having to do with waste production and management.

The Autonomous Communities shall also have the authority to grant waste transfer authorisations from or to European Union countries regulated in Regulation (EEC) 259/93 and those for transfer within national territory and the inspection and, as the case may be, punitive action arising from the aforementioned transfer systems...".

The Autonomous Community (i.e. the Andalusian Regional Government) is therefore responsible for the authorisation, surveillance, inspection and sanction of the transfer of waste from Gibraltar given that Gibraltar, although separated from the United Kingdom, "is European territory whose external relations are assumed by a Member State", in this case the United Kingdom (Article 299.4).

The Ministry of the Environment and Rural and Marine Affairs works hand-in-hand with the Andalusian Regional Government and the Office for Gibraltar Affairs of the Ministry of Foreign Affairs to oversee compliance at all times with Regulation 1013/2006 on the transfer of waste during the removal of the entire shipwreck of the *New Flame* from the seabed".

(*BOCG-Congreso D*, IX Leg., n. 109, pp. 463–464).

b) *Marine Biodiversity*

On 31.01.08 the Government responded in Congress to a parliamentary query on the creation of protected marine areas by stating as follows:

"The Natural Heritage and Biodiversity Act, Law 42/2007 recently approved by the *Cortes Generales* sets out in Article 29 the instruments to protect natural areas which include "Protected Marine Areas (AMP)" defined as "natural areas designated for the protection of ecosystems, communities or biological or geological elements of the marine environment, including inter-tidal and sub-tidal areas that merit special protection due to their scarcity, fragility, importance or singularity".

The Act does not lay down criteria for the declaration of an AMP although Article 32(4) provides that "The Sectoral Conference, upon request by the coastal Autonomous Communities and the General State Administration, shall establish the minimum common management criteria applicable to the Marine Areas included in the AMP Network".

In this regard it must be recalled that criteria have already been established for the AMP at international level, particularly in the OSPAR Convention, and the Barcelona Convention Natura 2000 criteria must also be taken into account.

Inasmuch as the AMP of Galicia, the Ministry of the Environment is planning to start next year with the description and identification of the *Galician Bank* for possible future inclusion in the AMP Network and the Natura 2000 Network”.

(*BOCG, Congreso D, VIII Leg., n. 672, pp. 291–292*).

2. Climate Change

On 16.09.08 the Secretary of State for Climate Change, Ms. Ribera Rodríguez, appeared before the Congressional Environment, Agricultural and Fisheries Commission to report on actions being taken to implement the National Climate Change and Clean Energy Strategy and on the negotiations surrounding the European Commission package on climate change-clean energy. The Secretary of State highlighted the following during her appearance:

“... the Government has identified six fundamental strategic lines of work for this legislative period, five of which focus basically on the reduction of greenhouse gases and one, as we will see presently, on the yearning to gain greater insight into just what climate change means for Spain and how we can combat it...

The first of these has to do with responsible production and consumption, the generation of waste and manure... The aim is to devise a frame of reference for national waste management policy. The objective is to generate less waste and to manage it more efficiently. This will require greater sectoral and inter-administrative efforts while keeping to a strict schedule and with ambitious objectives over the medium and long-term.

As for forest policy, the Government has just announced... the initiative to plant 45 million trees. In our view, this project is very appealing due to its impact on mitigation strategies based on carbon sequestration through forest species and areas and on adaptation to climate change scenarios, the most probable future climate scenarios...

The third line of action focuses on building. We are pursuing more sustainable building objectives over the medium and long term which favour a greater percentage of self-supply of buildings energy needs.

The fourth strategic line within the sphere of mitigating greenhouse gases... has to do with sustainable mobility; mobility which is more than infrastructure policy, industrial fuel policies or fiscal policy. It is probably the integration of all of this, i.e. managing demand, innovating the production of vehicles, R&D on vehicles and fuels and, where appropriate, with the best urban planning schemes to increase the efficiency of transport service demands and, why not also the demand for infrastructure and modal change...

(...)

And the last line of fundamental mitigation which, to a large degree, encompasses part of the preceding, is what we have called energy sustainability... We will have to seek full complicity and consistency with the objectives of energy perspectives over the medium and long-term and the objectives on which we are working jointly in the European Union with our sights on 2020.

(...)

The other three priorities of the National Plan for adaptation have focused on water resources...water in a country with a transitional climate such as Spain requires close monitoring and must be considered jointly with climate change and water planning to guarantee a suitable medium and long-term response, but also work on monitoring impacts on our ecosystems – work undertaken, together with the Portuguese Government, by different universities and increasingly affecting Spanish research centres – and impact on the coast due to their physical and geographical importance and the amount of economic activity and urban centres close to our coastline...

All of these domestic lines of work must be included in our fourth objective: to be an active and engaged partner in the search for solutions at multilateral level, the identification of efforts which the international community should make to more effectively combat climate change...This is the context in which the energy and climate change package presented by the European Commission in January 2008 takes on special importance.

Through this package the Commission makes a stable proposal, a proposal that, in principle, is isolated from the ups and downs and difficulties of the United Nations multilateral negotiation process. We Europeans are going to be the first to have a clear regulatory framework for the upcoming years assuming, as I said before, in the event of achieving an agreement with the same effort, in the multilateral context we will increase our effort...In my view, one of the most interesting characteristics of this package presented by the European Commission is that for the first time it introduces an outline for the allocation of efforts that may improve upon or exceed those envisaged in the Kyoto Protocol and allow for a better comparison of comparable elements...

The following are some of the most important characteristics of these regulatory provisions. First of all, having regard to the Emissions Trading Directive, as you well know the main characteristic element is that for the first time we have a shared common ceiling at Community level based on a restrictive allocation, subtracting the reduction potential used by the Commission taking stock of industrial emissions and especially electricity generation for the whole of the European Union. The Commission proposes a free allocation applying sectoral efficiency markers minus a gradually growing percentage that should be obtained by the facilities through a system of emission rights auctions at Community level...

(...)

Having regard to the Directive on the allocation of the renewable energy objective, once again the most interesting and significant data is that the main factor used by the Commission is linked to the relative GDP of each Member State and energy consumption. Here, once again, taking the average effort, Spain must guarantee that 20% of the total energy consumed is renewable...

And lastly, the Directive on the geological sequestration and storage of carbon dioxide is a basic tool which will define some of the key elements of this new scheme, i.e. environmental safety and financial security guarantees

surrounding storage and transport systems and access to the transport network of sequestered CO₂.

(...)

(DSC-C, IX Leg., n. 71, pp. 5–10).

XI. LEGAL ASPECTS OF INTERNATIONAL COOPERATION

1. Development Cooperation

a) General Lines

The Minister of Foreign Affairs and Cooperation, Mr. Moratinos Cuyaubé, appeared before the Congressional Foreign Affairs Commission on 22.05.08 to report on the general lines of his Ministry as concerns cooperation:

“...there is general consensus as regards the need to seek global solutions for global problems and we also have a shared need to develop a more efficient and consistent multilateral system. Our commitment to multilateralism implicitly includes striving to strengthen and improve the way the United Nations operates. We will continue supporting the organisation’s reform process by leading the group of friends of the United Nations and will undertake new initiatives to make the system more consistent in the areas of development, humanitarian assistance, the environment and gender equality, and to enhance coordination among its different agencies. The Alliance of Civilisations is a project that pursues a more balanced and fair sort of globalisation and constructive dialogue-based co-existence supporting respect for diversity. Our nation will continue to be one of the drivers of this new pillar within the framework of the United Nations; a pillar of understanding between cultures which the United Nations system is still lacking. Specifically, we will work on preparing the upcoming Istanbul Forum and the implementation and enforcement of our national plan.

(...)

...Spain is a generous country exhibiting solidarity in combating poverty. In 2012 we will allocate 0.7 of our gross domestic product to Official Development Assistance, our country being the one that has made the most progress in this connection over the last four years. The lion’s share of this growth has been in non-reimbursable and unconditional cooperation with a greater accent on fulfilment of the millennium development goals, greater spending on basic social services and a trend towards significantly increasing aid to the least developed countries of Sub-Saharan Africa, but not to the detriment of countries from other geographical areas, especially Latin America. There has also been noteworthy growth in aid earmarked for humanitarian action and education and awareness-raising as concerns development.

...Spain will lead an EU debate during the Spanish Presidency on the reform of today’s international financial mechanisms in order to define a common

European position. We will actively support international initiatives in the multilateral framework of the FAO arising as a result of the intensifying economic crisis and the risk of a food crisis. Also within the broad framework of international cooperation, stepping up political and cultural relations and defending Spain's economic interests, the Government will establish a new Africa Plan 2009–2012 and will review and update the Asia Plan.

(...)

Spain does not shirk its responsibilities stemming from its role as the world's eighth economic power. Our country will continue to make political and diplomatic efforts throughout the world based on the defence of human rights, general state interests, peace, international legality democracy and social justice".

(*DSC-C*, IX Leg., n. 27, pp. 3–6).

The Secretary of State for Cooperation, Ms. Rodríguez Ramos, appeared before the International Development Cooperation Committee on 16.10.08 to report on the high-level meeting to assess the effectiveness of development aid held on 1–4 September 2008 at Accra:

"...this meeting had an important precursor, the well-known Paris Declaration on aid effectiveness done at Paris in 2005. This 2005 Paris Declaration... was drafted around five principles and twelve indicators so as to monitor compliance with these five overarching principles of aid effectiveness set out in the Paris Declaration. I will simply list them...: The first principle is commitment to ownership meaning that recipient countries exercise real authority and leadership in their development policies and strategies; the second principle, aid alignment, means that donor nations base their support on the national strategies, institutions, systems and procedures of recipient countries; the third principle, harmonisation, means that donor countries commit to transparency and working jointly; the fourth principle is result-based management meaning that donors and recipients commit to improving the administration of resources, decision making and progress towards national strategies based on results; and the fifth principle covers mutual accountability between donor and recipient countries...

...At the Accra meeting each of these principles was developed based on the Paris Declaration; the concept of ownership was broadened in the sense that the Government is not the only player responsible for taking a leadership role in a country's development; parliaments, local authorities and the civil society should get involved as well; accent is placed on capacity building in recipient countries; there is a growing obligation for donor countries to use national systems as the first option in undertaking their cooperation work because the cost of aid doubles when donors create parallel structures on top of those already existing in recipient countries and, of course, the risk that our actions will be ineffective increases when we, as donor countries, fail to coordinate our actions in the form of joint initiatives.

At the Accra meeting we also took a closer look at the need to reduce the fragmentation of aid through the division of labour at national and sectoral level. In this connection, special mention should be made of the commitment made by

European Union member countries through the code of conduct. Donors reaffirm their commitment to provide 66% of aid in the form of programme-based mechanisms and to channel at least 50% of the Government-to-Government aid through national trust systems, including an increase in assistance through programme approaches. The 2001 DAC recommendations on the need to disassociate development assistance were broadened and further developed... I should point out that as a follow-up to the Accra meeting, the Government approved a report on the effectiveness of Spanish assistance and development cooperation at its 19 September Cabinet meeting.

...Spanish cooperation has made an effort to introduce a series of elements with the aim enhancing the quality of aid. These elements include greater focus on the planning cycle, monitoring and evaluation of goal oriented policies; secondly, they foster policy coordination, complementarity and consistency, management system reform, particularly of the AECID, and review and implementation of more efficient and effective instruments within the framework of the current international development agenda...

(...)

(DSC-C, IX Leg., n. 118, pp. 2–4).

The Minister of Foreign Affairs and Cooperation, Mr. Moratinos Cuyaubé, appeared before the Congressional Commission for International Development Cooperation on 02.10.08 to report on the strategic lines of Spanish Cooperation and the conclusions of the high-level meeting on the Millennium Development Goals held at the United Nations on 25–26 September 2008:

“...The Government assumes that the basis and final objective of its development cooperation policy is to combat poverty and it focuses all of its sectoral and cross-cutting priorities on achieving that objective. To that end, our aim is to support recipient countries in their efforts to strengthen their democratic institutions, build peace, meet basic social needs, achieve equal opportunity between men and women, generate employment and income and respect the environment. The efforts made by Spanish Cooperation to contribute to the achievement of these objectives do not only call for a framework of theme-based priorities but also, as a donor, for a change in the management of development initiatives. The new efforts being made by Spanish Cooperation are based on four pillars. The first is consensus, a key pillar for the incorporation of development policy into Spain’s foreign action from the perspective, as I alluded to at the beginning of my presentation, of achieving a State policy. The existing State pact on development cooperation can only be consolidated and further developed if this policy is based on dialogue and shared construction among all of the stakeholders. The second is the increase in the amount of assistance, an immediate consequence of the noteworthy effort that Spain has made in this connection.

As for the third pillar, these quantitative commitments must go hand-in-hand with a special effort to increase the quality and effectiveness of aid. This third pillar is in response to international consensus in favour of enhancing aid effectiveness and encourages donors to drive substantial change in the way we

build and implement our action. This is supported by four basic mechanisms. The first is planning and evaluation tools taking account of Spanish Cooperation priorities and those of recipient countries. This takes the form of the successive annual international cooperation plans (PACI) and their follow-up reports. From a more strategic perspective we have sectoral strategy documents and from a geographical perspective we have the country strategy documents and special action plans. These planning efforts are being provided with appropriate evaluation mechanisms enabling us to improve our action based on the results obtained. In accordance with commitments made through the aid effectiveness agenda and the Accra Declaration, Spain is working towards progressive harmonisation and complementarity between donors... In this connection I should underscore the approval in May 2007 of a European Union code of conduct. Spain is full engaged in the monitoring and verification processes of the commitments included in the Paris Declaration and the recently approved Accra Declaration, whose conclusions will be integrated into the III Management Plan currently being drafted. Spain will implement an action plan with a view to complying with the commitments made in Accra...

(...)

The fourth pillar of Spanish Cooperation to move forward in the achievement of the millennium development goals is our country's active participation at international level. Consistent with our pursuit of active, selective and strategic multilateralism, we are actively present in multilateral organisations and fora in the area of development. The main objective here is to contribute to the debate, participate in the decision making process and in the building of the international development agenda.

...I would like to dwell a bit on the issue of the Millennium Development Goals... On 25 September last, the United Nations held a high-level meeting to take stock and review the Millennium Development Goals coinciding with the opening of the 63rd session of the General Assembly. Two issues stood out at the general debate during the opening days of the General Assembly, first of all the finance and credit crisis originating in the United States and which is affecting the world's economic system and secondly, as was stressed by the Secretary-General of the United Nations himself – without losing sight of the fact that our top priority remains the fight against hunger and poverty – what remains to be done to meet the so-called Millennium Development Goals. We therefore vitally need to renew and re-launch this commitment...

...Spain arrived at this new period of General Assembly session fully aware of the difficult international situation we are undergoing but determined not to become discouraged or complacent. During our stay in New York we heard a great many different analyses of the causes underlying the complex crises we are suffering: the financial and credit crisis, food crisis and also crisis of trust.

...Spain's contributions in the form of Official Development Assistance have been refocused to align them with the international priorities and commitments contained in the Millennium Development Goals and focus on achieving them.

In 2007, Spanish Cooperation's net contribution to the achievement of the Millennium Development Goals totalled €3.75 billion; €2.618 billion were earmarked for sectoral interventions associated with Millennium Development Goals, €1.272 billion of which were in the form of concrete contributions to combat extreme poverty. The rest of the contributions targeting the Millennium Development Goals, €1.346 billion, were allocated to the following lines of work. First, to combat hunger – the first Millennium Goal – the money was used for food production in the agriculture and fisheries sectors and food assistance...Second, support for education...Third, for actions to achieve greater equality between men and women...Four, the health sector..., with a special focus on child mortality..., improvement of maternal health...and to combat HIV/AIDS, malaria and other diseases...Five, environmental sustainability...Six, to boost global development associations...

(...)

(DSC-C, IX Leg., n. 111, pp. 2–6).

The Minister of Foreign Affairs and Cooperation, Mr. Moratinos Cuyaubé, appeared before the Senate's International Development Cooperation Committee on 06.11.08 to report on the general lines of action of his Ministry in the area of cooperation and underscored the following position of the European Union and Spain regarding the International Conference on Financing for Development to be held in Doha from 29 November to 1 December 2008:

“The European Union priorities at Doha will revolve around a series of lines of action. First of all, the fight against tax fraud and capacity building in developing countries to manage public finances. Secondly, promotion of external investment leading to sustainable social growth. Thirdly, bolstering of trade assistance to support regional integration. Four, promotion of a collective frame of reference for sustainable indebtedness. Five, financing of emerging needs in the areas of climate change and food and energy security. And lastly, mitigation of inequalities in general and of gender inequality in particular.

(...)

Achievement of the first millennium development goal: to eradicate extreme poverty and hunger has direct repercussions on the rest of the Millennium Development Goals and is, more than ever, one of the main challenges which the international community must address. The Spanish Government has been tackling this challenge for quite some time and is aware of the need for greater investment of monetary resources for that purpose and is leading, together with Chile, Brazil, Germany, France, South Africa and Algeria, the search for innovative, predictable and stable development finance as a member of the initiative against hunger and poverty”.

(DSS-C, IX Leg., n. 76, p. 4).

The Secretary of State for Cooperation, Ms. Rodríguez Ramos, appeared before the International Development Cooperation Committee on 18.12.08 to report on the development of the Spanish Cooperation Master Plan 2009–2012:

“...in 2009–2012 we must step up our efforts to contribute to the achievement of the Millennium Development Goals at a time when we are also facing other global challenges such as climate change, the food crisis, the trade crisis and the financial crisis which are hitting the poorest especially hard. No one can call into question the will of the Government of Spain to increase the volume of our Official Development Assistance. As was recently revealed, Spain is the OECD country which has done the most to increase its Official Development Assistance in 2007 and we continue to march forward towards the objective of 0.7% of our GDP with the intermediate milestone of 0.56% of GDP devoted to Official Development Assistance in 2010. There can be no excuses, assistance for the poorest nations should not suffer due to global economic problems...

The Master Plan...we want this Master Plan to focus on the effectiveness and quality of assistance which will entail adapting our cooperation to the requirements defined in the Paris Declaration, the Accra Agenda for Action and the European Union code of conduct...

(...)

Basis for a common development policy. The 2009–2012 Master Plan is based on principles and approaches addressing development and the fight against poverty as a complex and multi-dimensional process. It conceives development as a right...

The Master Plan strives to achieve objectives, establishing seven strategic spheres of action. The first is association in the field as a key element for effective and quality assistance. Spain realises that the assistance effectiveness agenda must be a process of democratic and local leadership engaging all of the stakeholders in the recipient countries...

The second strategic sphere has to do with active and effective multilateralism. In 2009–2012, Spain will continue to bolster human and organisational resources to enhance the management, monitoring and evaluation of the funds...

The third strategic sphere focuses on the consistency of development policies and this will be one of the priority challenges during this period. We assume the commitment made by consensus by European development agencies that different development assistance policies also significantly contribute to recipient countries' social, economic and democratic development. We know that the consistency of development policies is a huge challenge because it entails pooling interests which are sometimes different...

Strategic sphere number four is education for development that promotes global citizenship fostering a culture of solidarity through knowledge, attitudes and values...

Number five focuses on research, innovation and development studies because one of the essential prerequisites to being able to carry out a quality development policy is having research personnel and research centres devoted to development...

...Strategic sphere number six is institutional and human capacity-building. Here we address measures to achieve an appropriate level of professionalism and stability for Spanish Cooperation human resources...

(...)

Cross-cutting, sectoral and multi-sectoral priorities. The cross-cutting priorities of the Master Plan are the fight on poverty, democratic governance and human rights promotion, gender in development, environmental sustainability, consideration of the cultural dimension and respect for diversity. These cross-cutting priorities are set out in conventions, declaration and international treaties. The Master Plan establishes guidelines to make sure that they are truly and effectively incorporated into Spanish Cooperation actions.

...First of all, we have rural development and the fight on hunger... Water and sanitation are once again considered a basic social sector...

Spanish Cooperation acknowledges the importance of economic growth in reducing poverty and incorporates into this Master Plan a serious intervention in this respect, providing it with the most suited instruments in order to achieve this objective. Climate change is included in the Plan for the first time; the poorest are the most vulnerable to the effects of a deteriorating environment. Science, technology and innovation are included in light of their important multiplier effect in sectors such as health, agriculture, hunger alleviation and the fight against climate change. And lastly, the Master Plan also includes for the first time a section devoted to migration and development...

Other sectoral priorities include democratic governance...

A third group... is comprised of multi-sectoral priorities. Spanish Cooperation is keen to paying special attention to especially vulnerable groups suffering more serious processes of exclusion and marginalization...

...The geographical priorities in the 2009–2012 draft Master Plan. In determining geographical priorities, the Master Plan is first of all based on the need to strive for the greatest degree of aid effectiveness which means applying the international guidelines I referred to earlier, including those stemming from the European Union code of conduct on complementarity and division of labour. This is based on four basic criteria. The first is the progressive pooling of resources in less advanced countries. The second is the concentration of assistance in a reduced number of countries and sectors, leading to a reduction in the number of Spanish Cooperation priority countries which fell from 56 in the 2005–2008 Master Plan to 50 in the one we are now presenting. The third is the focusing of donors' assistance on those areas with a comparative advantage. And the fourth is the commitment to States in a particularly fragile situation. For all of these reasons, the Master Plan defines the following criteria for the selection of geographical priorities: development indicators of the country, focusing assistance on countries and regions with the highest levels of poverty and exclusion, least developed countries, and countries with a low average income; the presence and organisation of Spanish Cooperation in the country; the potential of the country as a recipient and the relative position of Spanish Cooperation vis-à-vis other donors.

(...)"

(*DSC-C*, IX Leg., n. 184, pp. 2–6).

b) *Combating corruption*

Note: See: XI.1.a) *General Lines*

In response to a parliamentary query in Congress on corruption in the recipient countries of Spanish Cooperation, on 08.07.08 the Government reported that:

“Combating corruption is an essential part of Official Development Assistance because corruption affects the credibility of democratic institutions and the real likelihood of eradicating poverty. Corruption also has a negative impact on investment which could help in the development of these countries, making them unattractive to international investors.

(...)”.

In light of this scenario, the Government also points to the importance of:

“...applying institutional measures backed by national or international legal instruments (United Nations Convention against Corruption, Inter-American Convention against Corruption, OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions) oblige states to investigate and prosecute cases, recover stolen property or create national ad hoc institutions (Anti-corruption Prosecution Services or Commissions).

(...)

Legal measures promoting capacity-building in social auditing and citizen participation in the handling of public affairs (citizen participation laws or access to public information laws).

Measures devised to educate in values and ethical codes. For example, the training of civil servants in the areas of integrity and public service.

(...)”.

Lastly, the Government presents the following specific measures:

“1. The Government has supported the Issues Paper proposal “An Agenda for Collective Action Against Corruption” formulated by the OECD’s Development Assistance Committee and measures to facilitate joint consulting and the drafting of a Voluntary Code of Conduct so that donors give coordinated responses in legal terms.

2. Our strategic planning points out that corruption is associated to a lack of citizen participation and therefore our actions focus on the promotion of participatory and representative democracy and political pluralism...

3. The OECD’s DAC has focused on the need to analyse more closely opportunities to fight corruption at local level insofar as decentralisation means the de-concentration of power and therefore a greater chance for control and social audit; this also means social capacity-building with the implementation of information and transparency policies in the management of public affairs.

The DAC has also undertaken to draft a Programme of Joint Action to combat corruption. The Government of Spain has worked actively on the adoption of this joint strategy which is broken down into a series of commitments presented

at the high-level meeting of the OECD with the World Bank and the IMF on 12–15 April 2007.

If donors' initiatives are to be global, it is not enough to introduce improvements in the public administration sector which has traditionally been the way to combat corruption...

This means supplementing traditional support for the creation of Anti-corruption Committees in developing countries with other types of measures such as local actions and the strengthening of civil society...

Division of labour among donors is needed to have a greater impact...

We need joint evaluations on governance which could aid in understanding the deep-lying causes of corruption. In this connection, Spain has pointed out that the joint evaluations conducted in DAC countries must be coordinated with the efforts already under way”.

(*BOCG-Congreso.D*, VIII Leg., n. 672, pp. 142–143).

2. Assistance to Developing Countries

Note: See XI.1.a) *General Lines*, 3. Immigration, 4. Terrorism, 5. External debt, 6. Endemic diseases. Malaria.

a) Latin America

Note: See I. International Law in General, and XIII.5.b) *Latin America*

The Secretary of State for Latin America, Ms. Jiménez García-Herrera, appeared before the Senate Latin American Affairs Commission on 23.06.08 to report on the V Summit of Heads of State and Government of the European Union and the Latin America and Caribbean countries held in Lima on 23.06.08:

“...Following a very politically active 2006 – never in Latin America had so many elections been held in such a short span of time –, 2007 was a transition year. The elections coincided with the best economic situation in Latin America of the last several decades with an average growth rate of 5% from 2004–2007. The poverty rate, while still high, decreased by 38.5% and the extreme poverty rate by 14.7% – the lowest levels of the last 25 years – although I insist that they are still painfully high.

(...)

...There is evidence showing that we cannot let down our guard because there is still so much to do. First of all, although democracy is the preferred system throughout Latin America, only 38% claim to be satisfied with the way it operates...

Secondly, despite noteworthy economic growth and the ensuing fall in the poverty rate, Latin America continues to be the most unequal region of the world, even more so than Africa; one third of the citizens, approximately 200 million people, still live below the poverty line.

Thirdly, although today world oil and other commodity prices are high, especially foodstuffs such as cereals, experience has shown that these situations are passing.

(...)

Fourthly, we have to recognise that this period of establishing political options and defining models is also affecting the consolidation of sub-regional integration processes...

(...)

There is not even one Latin America country where Spanish Cooperation does not include a specific project aimed at democratic and institutional capacity-building...

...Regarding the development challenge, the Lima Declaration includes the creation of a structured and multi-comprehensive dialogue on migration intended to give some order to somewhat disperse movement over the last several years. This dialogue will revolve around three essential pillars: legal migration, illegal migration and the contribution of migratory flows to development.

(...)

...The European Union in general and Spain in particular are interested in a stable Latin America and peace and security throughout the region. We are willing to contribute with the expertise we have gained and we are also in a position to provide the instruments needed to collaborate as needed in the implementation of initiatives intended to bolster regional security...

(...)

The Lima Summit opened a biennial that will conclude, as I mentioned earlier, in the first half of 2010 when, under the Spanish presidency of the EU, the VI European Union, Latin America and Caribbean Summit is held. 2010 also marks the kickoff of the bicentennial celebrations of independence for the Latin American republics. This could be an extraordinary opportunity for reflection on our shared past, but it could be an even better opportunity to set the stage for a forward-looking agenda which should engage both Spanish and Latin American citizens and, even more importantly, the implementation of that agenda is going to be marked by a clear reality – that of an increasingly intense bilateral relationship with ever more decisive involvement of the societies from both shores of the Atlantic...".

(DSS-C, IX Leg., n. 33, pp. 3–7).

b) The Mediterranean

Note: See XI.3. Immigration and 4. Terrorism

c) Africa

Note: See XI.4. Immigration, 5. Terrorism, 6. External debt, 7. Endemic diseases

d) *Asia*

In response to a parliamentary query posed in Congress on aid for the reconstruction and development of Afghanistan, on 15.10.08 the Government reported that:

“The commitment made by Spain at the International Donors Conference for the Reconstruction of Afghanistan held in London at the end of January 2006 totalled €150 million for the period 2006–2010.

(...)

The Government of Spain, which took part in the Donors Conference for Afghanistan held in Paris on 12.06.08, is well aware of the effort made at the London Conference for the Reconstruction of Afghanistan, and has focused on improving the institutional mechanisms of the Islamic Republic of Afghanistan and working with the international organisations on the ground in that country to make the aid received more effective.

The Spanish Government is also focusing its efforts on bolstering Afghan institutions as a cross-cutting policy in all of the activities undertaken in the areas of reconstruction and development cooperation. Moreover, in Paris, Spain continued along the lines drawn by most of the other EU countries, stressing coordination among the donors engaged in the reconstruction of the country and securing a commitment from the Afghan authorities to limit institutionalised corruption in Afghanistan.

And lastly, I should point out that in Paris the Minister of Foreign Affairs and Cooperation led a tripartite strategy (Spain, Poland and the Arab Emirates) for agricultural reform in Afghanistan, engaging the Afghan Government itself in the development of a key sector for the country’s stability by seeking alternative crops to displace opium (one of the main causes of corruption in the country) and with the aim of creating technical schools for agricultural training throughout the whole country”.

(*BOCG-Congreso.D*, IX Leg., n. 99, p. 565).

3. Immigration

Note: See V.2. Aliens; XI.1.a) *General Lines* and 2. Assistance to Developing Countries

In response to a Parliamentary query posed in the Senate regarding the measures adopted to combat illegal immigration from African countries, on 21.07.08 the Government reported that:

“1. First of all the readmission agreements, whose aim is to facilitate the identification and readmission procedure for illegal immigrants.

These can be:

- a) Nationals from one of the Parties to be repatriated from the other Party.
- b) Nationals from third countries or stateless persons who arrived to one of the Parties in transit through the territory of the other Party. Agreements of this

sort envisage the readmission of the nationals from one Party who are illegally in the territory of the other and who have successfully travelled through the territory of the other Party. In order to simplify these readmission proceedings, we have guidelines on the way to identify the nationals from both Parties and to verify their nationality.

c) Both categories.

Readmission agreements can be bilateral or negotiated at Community level, the Commission taking the initiative in this latter case.

Currently Spain has signed bilateral agreements to combat illegal immigration with the following African nations: Algeria, Cape Verde, Gambia, Guinea-Bissau, Guinea-Conakry, Mali, Morocco, Mauritania, Niger and Nigeria.

And lastly, these types of agreements may contain technical assistance clauses targeting the authorities of the countries of origin (for example, in the agreements signed with Nigeria and Mauritania).

2. The second category encompasses framework cooperation agreements focusing on immigration. In these agreements, the signatories commit to, within the limits of their possibilities and resources, to provide mutual assistance in different areas (voluntary and assisted return programmes; legal employment arrangements, police and operational assistance in combating illegal immigration, etc.).

3. Thirdly, the so-called regulation agreements of migratory flows set up a bilateral framework for the regulation and control of labour migratory flows. In other words, while these do have some bearing on the regulation of illegal immigration, they essentially affect legal immigration.

The Framework Cooperation Agreements on immigration matters that were signed by the Ministries of Foreign Affairs and Cooperation, Interior and Labour and Immigration are all included in the 2006–2008 Africa Plan approved by the Government containing an ambitious set of measures devised to contribute to development in Africa, all organised into seven lines of action including those focusing on cooperation to adequately regulate migratory flows.

The most recent agreements concluded by Spain with the Republic of Gambia, the Republic of Guinea, the Republic of Mali and Niger, whose signing was authorised by the Cabinet on 09.05.08, all conform to the characteristics of the last two categories insofar as they take a comprehensive, pragmatic and cooperative approach to migration between Spain and these countries with as view to effectively combating illegal immigration and facilitating the repatriation of those nationals from one contracting party who are found illegally in the territory of the other Party.

The text of these agreements includes the admission procedure applicable to workers, voluntary return, the integration of residents and institutional cooperation mechanisms between administrations for the purpose of information, capacity-building and guidance”.

(*BOCG-Senado.I, IX Leg., n. 63, p. 79*).

In response to a Parliamentary query posed in the Senate concerning the rise in illegal immigration from Moroccan territory, on 20.08.08 the Government reported that:

“The Government is in permanent dialogue with Morocco on immigration matters covering aspects such as the prevention and management of illegal migratory flows and the fostering of legal channels of immigration, immigrant integration and development proposals for the Sub-Saharan African countries of origin.

This permanent dialogue is at both technical level and at the highest political level. Migratory issues have been the subject of talks held between the delegations of Spain and Morocco on the occasion of the visit made by the President of the Government on the 11th of July. As a follow-up to those talks the Minister of the Interior, Mr. Rubalcaba, travelled to Morocco on the 15th of July to make further headway in the excellent cooperation on migratory issues and security matters.

Morocco and Spain were pioneers in launching an agreed, multi-dimensional and global management model in countries of origin, transit and destination at the Euro-African Conference on Migration and Development held in Rabat in July 2006. At bilateral level, cooperation has resulted in a +60% reduction in illegal migratory flows, coordinated action between the employment authorities of our two countries for engagement of workers and the fostering of cooperation actions in the African countries of origin.

The Government will not be miserly in its efforts to prevent the loss of human lives and trusts that the set of migratory policies it is promoting, where respect for the dignity and human rights of migrants plays a major role, will contribute to reducing trafficking by those who fill their pockets by exploiting the need and legitimate human desire to improve one’s level of well-being.

I would finish by pointing out that from January to June 2008, the number of illegal immigrants arriving by sea in general, and Moroccans in particular, has decreased in comparison to the figures from the same period in 2007.

Therefore:

a) It is not accurate to speak of a rise in illegal immigration given that the number of illegal immigrants arriving to Spain on board small vessels from the coasts of Africa decreased in 2007 in comparison with 2006, the same being true for the period from January to June 2008 (through to the end of May, to be exact) vis-à-vis the same period in 2007.

b) The number of Moroccans or immigrants travelling from Moroccan territory has not increased but has rather decreased in the period from January to June 2008 (through to the end of May, to be exact) vis-à-vis the same period in 2007”.

(BOCG-Senado.I, IX Leg., n. 61, pp. 7–8).

4. Terrorism

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

The Government, in response to a Parliamentary query posed in Congress concerning joint information and analysis at European level, on 11.12.08 reported as follows:

“On 18.07.06 Spain ratified the Treaty of Prüm on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration done at Prüm on 27 May 2005 (Official State Gazette of 25.12.06) along with Belgium, Germany, France, Luxembourg, The Netherlands and Austria.

According to the Preamble of the Treaty itself, the Contracting States seek to play an innovative role in achieving the maximum possible level of cooperation with a view to enhancing European cooperation through more active and efficient exchange of information. This Treaty envisages, inter alia, the creation of national DNA analysis files.

Regarding these DNA files, Spain has created – during the last term – a police database on identifiers from DNA through Organic Law 10/2007 of 8 October 2007. Article 7(3) of that Law authorises the surrender of data to judicial, fiscal or police authorities of third countries in accordance with the provisions of international agreements ratified by Spain and currently in force.

The Treaty of Prüm provides for the establishment of national contact points for consultation of the DNA and dactiloscopic databases, vehicle registration information and other data included within the scope of the Treaty.

Interior Ministry Order 2103/2005 of 1 July 2005 implementing the organisational structure and duties of the Police Directorate-General, in line with European Council recommendations, especially number 19 (Action Plan to Combat Organised Crime of 28.04.97) advocating the joining together of the contact points already existing in Europol, Interpol and Sirene, grouped the National Central Interpol Office, the National Europol Unit and the Sirene Office under the International Police Cooperation Unit of the CPN’s National Crime Squad. This was done with the aim of enhancing international police cooperation and their duties.

(...)

And lastly, Spain has taken part in and encouraged the EU Council’s adoption of Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States.

In conclusion, I would say that firm action has been taken with regard to these issues during this term in the form of new instruments for use by police forces and by grouping, integrating and enhancing already existing ones”.

(*BOCG-Congreso.D*, VIII Leg., No. 666, p. 229).

The Government, in response to a Parliamentary query posed in Congress on the results of the collaboration between the US National Counter-Terrorism Centre and the Spanish Anti-Terrorism Coordination Centre, reported as follows on 03.12.08:

“...since the month of June 2005, the US National Counter-Terrorism Centre (NCTC) and the Spanish National Anti-Terrorism Coordination Centre (CNCA) have been sharing relevant information.

Since May 2007, regular working meetings have been held between analysts from our two centres to discuss anti-terrorism matters.

I would finally like to point out that a number of meetings have also been held between the heads of these Centres in order to lay down clear lines of collaboration”.

(*BOCG-Congreso.D*, VIII Leg., n. 659, pp. 222–223).

The Government, in response to a Parliamentary query posed in Congress regarding cooperation with different countries in combating terrorism, reported as follows on 07.10.08:

“Spain and France have an excellent relationship when it comes to anti-terrorism cooperation, not only focusing on ETA but also against international terrorism. In this regard, and considering that the main threats from radical Islamic terrorism for France and Spain arise from the situation in Maghreb, collaboration this year will be two-fold:

- Permanent information exchange.
- Regular meetings between police experts from the two countries to reinforce the already existing cooperation.

On the Spanish side, this collaboration will involve the state police and security forces which will work together with France’s Anti-Terrorism Coordination Unit (UCLAT) and the newly formed Central Interior Information Directorate (DCRI) which began operations on 1 July last and which is responsible for already existing intelligence services and the creation of a joint investigation team for these investigations.

As for Egypt, we now have a working arrangement with the Egyptian authorities in matters of international terrorism and our collaboration and cooperation is satisfactory. The plans for 2008 include keeping these channels of cooperation in operation”.

(*BOCG-Congreso.D*, IX Leg., n. 99, p. 559).

5. Foreign Debt

Note: See XI.1.a) General Lines

6. Endemic diseases. Malaria

In response to a Parliamentary query posed in Congress concerning action taken to combat malaria within the sphere of international cooperation, on 30.11.08 the Government reported as follows:

“Spanish Cooperation has prioritised the funding of research on forgotten and endemic diseases afflicting developing countries and, over the last decade, has demonstrated its firm commitment to support research and development on these types of diseases, especially those endemic throughout the African continent, as one of its overarching lines of action to combat poverty.

With this, Spanish Cooperation is also demonstrating its commitment to contribute to meeting the basic health needs of the poorest. If the results of the clinical vaccination trials (especially malaria) are satisfactory, this will undoubtedly have an enormous impact on the health of the population, not only in Mozambique but in the entire world.

(...)

Spanish Cooperation provides funding for the main investment expenditures in infrastructure and equipment in addition to overhead and training expenses while the other organisations cover the specific expenses of each research initiative...

(...)

In addition to research activities, the Centre is also involved in teaching and capacity-building of national human resources, provides medical assistance at the Health Centre and acts as a technical advisor to Mozambique's Ministry of Health.

(...)

From among the lines of research, special mention should be made of the impact of the intermittent treatment of malaria administered through the enlarged vaccination programme, the clinical trial to assess the safety, immunogenicity and effectiveness of the candidate vaccine against malaria by Glaxo SmithKline Biologicals – RTS S/AS02A – and the new lines of research targeting tuberculosis, HIV/AIDS, the human papillomavirus, pneumonia and measles.

As for medical assistance and training, research activities are supplemented by teaching and capacity-building of national workers and medical care activities at primary health-care level.

The combination of research, medical assistance and training is mainly responsible for the high impact of these activities which have been recognised at national and international level owing to the importance of the work being done.

(...)"

(*BOCG-Congreso.D*, VIII Leg., n. 659, pp. 194–196).

XII. INTERNATIONAL ORGANISATIONS

1. United Nations

Note: See XVI.1. Spain's participation in Peacekeeping operations

a) Security Council

On 19.11.08 the Spanish representative to the United Nations, Mr. Yáñez-Barnuevo, appeared before the General Assembly to speak about the annual report of the Security Council and the new makeup of that body:

"My delegation appreciates this opportunity to take part in this joint debate on the annual report of the Security Council to the General Assembly and on the question of the necessary reform of the Security Council..."

(...)

...As can be seen in the report, the Security Council has considered a set of cross-cutting issues which are of particular relevance to the General Assembly. I am referring to issues such as non-proliferation and disarmament, the fight against terrorism, the protection of civilians in armed conflict and the protection of women in armed conflict, to cite only a few examples.

Those are issues that the Security Council has considered in depth and areas in which the two principal United Nations organs should have greater interaction, exploring the various avenues opened up to us by the United Nations Charter itself. Specifically, I am referring to the implementation of Article 15, which establishes that the General Assembly shall receive and consider annual and special reports from the Council concerning the measures that the Council has decided upon or taken to maintain international peace and security.

My delegation understands that, if we encourage the drafting and submission of such reports on particular issues – a possibility that is also addressed in Article 24, paragraph 3, of the Charter – we can improve the interaction and cooperation between the two principal United Nations organs. We believe that this would result in the adoption of more effective measures aimed at preventing and eliminating threats to peace and promoting conditions conducive to international security.

Better interaction between the two principal United Nations organs is an issue of great importance to the Organisation's future and should be addressed in the forthcoming intergovernmental negotiations on Security Council reform...

(...)

As for the various issues that will arise in the forthcoming negotiations, our position is well known concerning the size and composition of the Security Council. We are convinced that a more democratic, representative, responsible and thus more legitimate Council can result from an expansion of the category of non-permanent members, which are the only members elected periodically by the Assembly and thus accountable to it. Our position, which does not favour an expansion of the permanent-member category, should be interpreted not as a rejection of a particular country or group of countries, but rather as a matter of principle based on the general interest of the Organisation, which is far greater than the individual interest of any Member State.

With regard to the Council's decision-making mechanisms, it should be recalled that any expansion of the Council's composition will necessarily require that the majority needed to take decisions be adjusted. From that perspective, our position is that a distinction should be made between the various types of Council decisions – just as the Charter distinguishes between procedural and substantive issues – and that we should also take into account the diverse scope of substantive Council decisions affecting Chapter VII or other types of issues under the Charter.

We believe that the use of the veto should be reserved exclusively for decisions that the Council adopts to implement Chapter VII of the Charter, because such issues require agreement among the permanent members. We are in favour

of the various proposals aimed at limiting the use of the veto in cases in which it is not really necessary or required under the Charter.

Concerning the issue of regional representation, we are convinced of the need to give regional groups a greater role in designating and endorsing their Council candidatures, ensuring appropriate sub-regional representation in each of them. We also favour the establishment of mechanisms that would guarantee the representation of trans-regional groups, such as the League of Arab States and the Organisation of the Islamic Conference, including through arrangements among the regional organisations concerned.

In any case, we need to find formulas that ensure adequate representation for small and medium-size States and for countries of the developing world, particularly in Africa. However, a more prominent role for regional groups must not call into question the competencies of the General Assembly, which, under the Charter, has the last word in electing non-permanent members of the Security Council. That gives them the legitimacy of having the support of the Organisation's entire membership.

With regard to the Council's working methods, my delegation supports the proposals submitted by the Group of Five Small Countries. In particular, we support the proposed reforms related to monitoring the implementation of Council decisions – through the establishment of appropriate assessment mechanisms – and to the functioning of the Council's subsidiary bodies.

I should like to take this opportunity to emphasize that, in addition to strictly monitoring the Council's functioning, we must promote greater dialogue and interaction between Council members and representatives of civil society, including non-governmental organisations and personalities from the parliamentary, academic or business worlds. If we truly want credible reform of the Security Council that makes it more democratic, representative, responsible, legitimate, effective and transparent, we must be able to adequately address the main reform issues, without any exception, during the intergovernmental negotiations that will begin on 28 February 2009 at the latest. We are fully prepared for those negotiations and hope that all other Members of the Organisation will be at that time".

(A/63/PV.55, pp. 19–21).

b) ISAF Mission (Afghanistan)

The Minister of Defence made the following statement in his appearance before the Congress of Deputies on 25.03.08 to request ratification of the deployment agreement of troops needed to operate unmanned aerial vehicles as part of the UN's ISAF mission:

"...As for our current presence in Afghanistan, I will briefly remind you that we are in the Western part of the country where we lead an advanced support base in Herat, we have a provincial reconstruction team in Qala-i-Naw with the Spanish Agency for International Cooperation and we just recently sent two operational advisory and liaison teams to train national Afghan army units

stationed at Camp Stone in the province of Herat close to our advanced support base and, in Manas (Kirghizstan), we have an air detachment providing support for the mission.

These 36 troops needed to operate the unmanned aerial vehicle unit – including the commander, operators and maintenance personnel – are in addition to the 742 troops approved to date for that mission and are within the 3,000 troop ceiling authorised by the Cabinet on 28.12.07 for all missions abroad... The 36 new troops have already been sent to the zone and are based in Herat and will use the landing strips there to operate...

The troops were deployed under emergency conditions in accordance with Article 17(3) of the National Defence Act (Organic Law) and the expenses arising from this action will be financed under the budget heading *Participation of the Armed Forces in Peacekeeping Operations...*

(...)

This information platform operating with unmanned aircraft is an important step forward in the modernisation process of our Armed Forces and its deployment in such a demanding scenario as Afghanistan is a major challenge. Our mission has not changed in terms of its definition duty or size. What has improved are the resources used and especially the safety of our troops and the gathering of significant amounts of information...".

(*DSC-P*, VIII Leg., n. 314, pp. 15539–15540).

c) *UNIFIL (Lebanon)*

The Minister of Foreign Affairs and Cooperation stated as follows in his appearance before Congress on 29.05.08 to request authorisation for the participation of a Spanish naval unit in the UNIFIL marine force (Lebanon), forming part of EUROMARFOR:

"...I would like to remind you that ever since the beginning, our troops have been exemplary in the discharge of their duties dictated by the United Nations. These duties are as follows...: to support the Government of Lebanon and its Armed Forces in the task of extending its authority throughout the whole of Lebanon; to supervise the break in hostilities; and to enable the undertaking of humanitarian activity. Despite the important work done to date, there is still much to do which is why we are still needed in the area providing security and enabling humanitarian aid to reach the Lebanese people... Spain has been in Lebanon since September 2006... all of the Parliamentary groups lent their support to this mission. Our presence in the zone is justified by United Nations Security Council Resolution 1701/2006. By virtue of Resolution 1773/2007 of 24 August, the United Nations decided to extend Unifil's mandate to 31 August 2008, including its naval component.

(...)

... Spain together with the other three countries – France, Italy and Portugal – forming the inter-ministerial cell of euro-forces, expressed its intention in June 2007 of participating in the Unifil naval force sailing under the Euromarfor flag

and relieving Germany as commander. Spain expressed its will to participate by sending an offshore patrol vessel and that is why we are here today to request the authorisation of this Chamber. The patrol ship is manned by 90 troops and this number is within the limit of 1,100 troops authorised by the Parliament for Unifil... I would like to express to all of you the importance of this mission; this is the first time that a maritime force has been used in a UN peacekeeping mission. Euromarfor aims to achieve three objectives with this operation called Impartial Behaviour. First of all, to demonstrate the cohesion among the participating nations and to contribute to achieving the security conditions needed to establish lasting peace in Lebanon. The second objective is to support the Lebanese Government's efforts to exert its authority in the territorial waters of its country. And lastly, to contribute to an effective transfer of responsibility to the Lebanese Armed Forces for security in their territorial waters. In addition to these main objectives there are others such as to lend support to the training of naval units of the Lebanese Armed Forces and to provide support for humanitarian operations. The breadth of these commitments dictates the importance and need to increase Spanish participation in the country. We remain firmly committed to stabilising and rebuilding Lebanon because we believe that peace in Lebanon is a vital prerequisite for the resolution of the Near East conflict and achievement of that peace will add stability and security to an area which is vital to Spanish and European interests. Gentlemen, for this new task in the terms expressed, I request your support and Parliamentary authorisation for the participation of a Spanish naval unit...

(...)"

(DSC-C, IX Leg., n. 31, pp. 1–5).

c) *Millennium Development Goals*

Note: See XI.1. Development Cooperation

2. World Trade Organisation

In response to a parliamentary query on trade policy priorities, on 03.11.08 the Government informed as follows:

“Having regard to the Spanish position in the Doha Round negotiations of the WTO, Spain will lend its full support to an open and predictable multilateral trade system based on rules. The European Union should continue to play a leadership role at the Doha Development Agenda negotiations within the framework of the World Trade Organisation.

The Government is working to strike an ambitious, global and balanced agreement at the Round where the poorest developing countries are the ones benefitting the most. A successful conclusion to the negotiations will give our companies new business opportunities through the opening of external markets, will foster development of the poorest countries and will strengthen the rules of the international trade system.

I would like to conclude by saying that among trade policy priorities, opening markets to Spanish companies at multilateral level is enhanced by trade agreement negotiations with specific regions such as MERCOSUR or Asean within the trade policy framework of the European Union”.

(*BOCG-Congreso D*, IX Leg., n. 120, p. 485).

3. Organisation for Economic Cooperation and Development

On 17.06.08, in response to a parliamentary query on the measures adopted to activate the National Contact Point of the OECD guidelines for multinationals, the Government reported as follows:

“In June 2000 the Government endorsed the review of the OECD guidelines for multinational enterprises together with the Governments of the other 30 member countries of this international organisation and 3 non-member countries...

The Guidelines for Multinational Enterprises of the OECD (hereafter the Guidelines) are recommendations that the Governments of the member countries of that organisation give to multinational enterprises for the purpose of promoting responsible behaviour and establishing an atmosphere of trust between them and the societies in which they operate. They are not binding and comprise the only code of conduct agreed by the Governments of the countries which are home to the majority of the multinational enterprises in the world today.

The procedure for the implementation of the Guidelines was also the subject of a Decision of the OECD Board, defining the duties of the National Contact Points (NCPs) which are official bodies entrusted with the promotion and dissemination of the Guidelines.

The National Contact point in Spain, located within the Secretariat-General for Foreign Trade of the Ministry of Industry, Tourism and Trade, is an official body entrusted with the general dissemination of the Guidelines and their enforcement in specific cases with the active support of social agents and other stakeholders.

In compliance with this OECD Board Decision, the Spanish NCP is constantly disseminating the Guidelines among the different stakeholders with a special accent on the business sectors, providing Spanish enterprises with the text of the Guidelines (translated into Spanish) through the Chambers of Commerce in Spain and abroad and through organisations such as the CESCE or COFIDES involved in helping companies to internationalise their operations.

Similarly, the NCP furnishes the Guidelines to enterprises interested in any type of activity abroad through the Territorial and Provincial Trade Directorates throughout all of Spain and also through Spain’s many Trade Offices abroad.

This dissemination also takes the form of seminars, trade courses, conferences and talks organised by staff members of the Secretariat-General for Foreign Trade responsible for this work and they target Commercial Attachés, diplomats, foreign commerce scholarship recipients, large enterprises and any other entity responsible for the external activity of Spain’s economic agents. The location of the Secretariat of the NCP at the Deputy Directorate-General for Foreign Investment,

entrusted with drawing up Spanish investment statistics abroad, sets up important synergies thanks to its contact with Spanish investment companies.

(...)

The Spanish NCP is open to collaboration with different stakeholders (business associations, trade unions and different civil society organisations) who are invited to meetings at the National Contact Point together with other ministerial departments.

(...)

The Spanish NCP also has the mission of acting in specific cases of breach of the Guidelines presented by any stakeholder in specific dealings of Spanish enterprises abroad. However, since the enactment of the Guidelines, the NCP has not received notice of any specific case and therefore has not had to take any sort of measures in this connection which would entail providing a forum for discussion and, as the case may be, give the parties access to out of court settlement devices such as mediation or conciliation.

The NCP has acted, however, in resolving different situations arising from specific cases, most relating to the action of Spanish enterprises in Latin America. Thanks to the work of the NCP, direct contact is made between the affected party and the enterprises to solve problems without reaching the stage where we have actual specific cases”.

(*BOCG-Congreso D*, IX Leg., n. 57, pp. 166–167).

4. Central American Integration System (SICA)

On 10.11.08 the Spanish representative to the United Nations, Mr. Yáñez-Barnuevo, addressed the General Assembly about the Central American Integration System:

“(...)

...Overcoming post-conflict situations is an arduous, long-term process, and in Central America there are still considerable challenges, such as combating impunity and transnational organized crime, but also eradicating poverty, especially in rural areas and among the indigenous population. Often, this is a challenge that remains in spite of very promising and positive macroeconomic indicators.

Spain supports the regional perspective in looking at these challenges. Regional mechanisms of dispute settlement, along with United Nations support, have demonstrated their strong effectiveness in Central America. We are convinced that further deepening of Central American integration is essential to achieving economic and social development, as well as strengthening democratic institutions and the rule of law in the countries that make up the sub-region.

Spanish assistance efforts in Central America have worked, and will continue to work, with this in mind. We will continue giving priority to assistance to democratic governance, citizen participation and strengthening civil institutions. Examples of this policy are the Cooperation Programme with Central America, put into place in 2003 and strengthened in 2006 with the Fund established by

Spain and the Central American Integration System (SICA), and cooperation programmes based on commitments adopted at various Ibero-America summits, such as the one that recently took place in San Salvador. These were commitments that have led us to work more in such areas as combating gender violence, juvenile crime or impunity for violent crimes.

For all these reasons, we welcome the efforts of the Government of Guatemala in the past few years, particularly in the areas of institutional development reform of the security forces, as has been emphasized in the recent letter by the Secretary-General to the President of the General Assembly (A/63/511). Initiatives such as the establishment of the International Commission against Impunity in Guatemala (CICIG) and measures adopted in the area of human rights have shown that the Government of Guatemala has the determination and the necessary vision to take its country down a path of lasting peace and democratic consolidation.

(...)

Spain has supported the establishment and operation of this Commission from its very beginning through agreements with Guatemala and the United Nations and is the main contributor to its funding. In fact, we have already provided three million euros for the period covering 2008 and 2009. We will continue to support the work of the Commission, so that the Commission can continue to carry out the strengthening of rule of law in Guatemala.

(...)

It is important for the United Nations system as a whole to respond to the Secretary-General's appeal for full cooperation to ensure the success of the International Commission and for it to fulfil its mandate as an addition to the measures adopted by the Government of Guatemala in order to meet the concerns expressed by the citizens of Guatemala. We would like to thank the Secretary-General for the information he has provided on this innovative initiative and we emphasize our support for the commitment and efforts made by the Government of Guatemala. It is essential to keep working to ensure that Central America remains on the agenda of the General Assembly as a key to progress and development and as an example of democratic consolidation.

Spain, which is part of the Group of Friends that has supported the International Commission against Impunity in Guatemala ever since it was initiated, is one of the sponsors of the draft resolution that has been submitted to the General Assembly for consideration. We hope that this draft resolution will be adopted by consensus and that it serves as support and encouragement in the difficult and important task that the International Commission and the Government of Guatemala have before them".

(A/63/PV.43, pp. 2–4).

XIII. EUROPEAN UNION

1. Treaty of Lisbon

In his appearance before Congress on 26.06.08 to present the Draft Organic Law authorising the ratification by Spain of the Treaty of Lisbon, the Minister of Foreign Affairs stated as follows:

“(…)

...the Government fully supports the draft reform of the European Union provided for in the Treaty of Lisbon...The Treaty of Lisbon contains noteworthy...steps forward in institutional matters allowing the Union to operate more efficiently such as the replacement of unanimity by qualified majority in nearly 50 cases or the generalised application of the co-decision procedure between the European Council and the Parliament for the adoption of European laws. The Treaty also reinforces the Union's democratic dimension with the introduction of measures such as the popular legislative initiative, control of respect for subsidiarity exercised by national parliaments and, especially, the incorporation of the Charter of Fundamental Rights into the Union's legal system.

Moreover, the Treaty incorporates important additions to the Union's common policies; additions that will give the Union the instruments it needs to attend to some of the citizens' main concerns. For example, it sets up a new legal basis for the Union's energy policy, it paves the way for the adaptation of competition policy to the needs of general interest political services, it puts police and judicial cooperation in criminal matters within the scope of the Community and lays down, in addition to other reforms, the bases for a common immigration policy which will reinforce consistency in the Union's external actions. This is the Europe that we want; this is the Europe that Spain believes in...

(...)

...the draft submitted by the Government is a brief text with an explanatory statement, two articles and a final provision simply pointing out that the Law will enter into force on the day following its publication in the Official State Gazette. The explanatory statement briefly describes the main contributions of the new treaty to which I have just referred. It also stresses the need to continue using, as everyday practice, the symbols of the Union, i.e. especially the flag and the European anthem, regardless of the fact that these do not actually appear in the Treaty...It also includes an explanation of the political reasons, and for the sake of transparency that I will address presently, why it was deemed important to reproduce in Article 2 of the preliminary draft a literal transcription of the European Union's Charter of Fundamental Rights to which the Treaty of Lisbon grants full legal force as I already mentioned. As is usual procedure, Article 1 simply refers to ratification of the Treaty by Spain. Article 2 contains the text of the Charter of Fundamental Rights with a reference to Article 10 of the Constitution...

...the failed Constitutional Treaty incorporated the text of the Charter in the body of the Treaty itself. This is not the case of the Treaty of Lisbon which simply refers to the text of the Charter published in the Official Journal of the European Union although it does, and this is vital, give the Charter full legal force. This is one of the main innovations of the Treaty of Lisbon of the European Union and I would even go as far as to say that this is the most significant of them. It so happens, however, that this Charter, which is primary legislation of the Union and will be incorporated into our constitutional system by way of Article 10 of the Constitution, will not receive any sort of mention in the Official State Gazette... That is why, for the sake of transparency, and especially for political reasons because it is a text that reaffirms the political nature of the European integration project while at the same time representing the best of the values on which that projects rests, the Government has deemed it appropriate to reproduce the full text of the Union's Charter of Fundamental Rights in Article 2 of the Law even though this is unnecessary from a legal standpoint.

(...)"

(*DSC-P*, IX Leg., n. 20, pp. 15–16).

2. Enlargement

a) Romania and Bulgaria

In response to a query on the consequences of the "moratorium" on the free movement of Bulgarian and Romanian workers, the Government made the following observations before Congress on 30.09.08:

"(...)

...in light of the prevalence of Bulgarian and especially Romanian workers in the Spanish labour market, and aware of the likelihood that new increases in the arrival of workers from those countries could cause imbalances in the Spanish labour market, on 22 December 2006 the National Government agreed to establish a two-year transitional period starting on 1 January 2007, date of accession, for the free movement of salaried workers from Bulgaria and Romania in accordance with the possibility envisaged in Annexes VI and VII of the Act concerning the accession conditions applicable to these two States and the adaptations of the Treaties on which the European Union is based.

As already mentioned, the Government heard from the most representative trade unions and business organisations and also had meetings with the responsible ministers of Bulgaria and Romania before taking this decision...

(...)

As a result of this two-year transition period starting on 1 January 2007 for the free movement of salaried workers from Bulgaria and Romania, nationals from these countries who wish to work or continue working as salaried employees in Spain find themselves in one of two situations:

1) First of all, workers who, on 1 January 2007, had already been working legally in Spain for at least one year or who, after that date, had been issued a work permit of one year or more in our country, are entitled to work in Spain with no limitations. In other words, they are covered under the standard Community alien system. However, if workers in either of these two circumstances voluntarily leave Spain during the transition period and fail to renew their salaried work permit by the stipulated deadline, they will lose that right.

2) Secondly, nationals from these two States who at the time of accession were not residents in Spain and to whom the general alien regime laid down in Organic Law 4/2000 of 11 January 2000 on the rights and freedoms of aliens in Spain and their social integration and the latter's implementing regulation would apply, including the particularities of a visa free of charge and not making the granting of a work visa contingent upon the national employment situation.

It is therefore clear that Spain, which has always firmly supported the accession of Bulgaria and Romania to the European Union, has fully respected the application of Community *acquis* as regards the free movement of Bulgarian and Romanian citizens – with the exceptions laid down in Annex VI (Republic of Bulgaria) and VII (Romania) of the respective Acts concerning accession conditions.

Furthermore, and independent of the establishment of the aforementioned transition period, the situation of Bulgarian and Romanian workers who are now in Spain has improved significantly given that they are subject to full equality as Community residents and regulations concerning extended family under the Community alien system apply where applicable under law".

(*BOCG-Congreso D*, IX Leg., n. 89, pp. 213–214).

3. Common Trade Policy

On 03.07.08, in response to a parliamentary query on action taken to promote the negotiation of bilateral trade agreements between the EU and areas of interest for the internationalisation of Spanish enterprises, the Government reported as follows:

“The European Union strategy regarding bilateral trade strategy has intensified considerably over the last two years as a result of the rethinking of the EU commercial policy strategy as described in the Commission Notice entitled “Global Europe: Competing in the World” approved by the General Affairs and External Relations Council on 13.11.06.

...we are currently immersed in agreement negotiations with Mercosur, Central America, the Andean Community, African, Caribbean and Pacific countries, Korea, India and the Asean region. Negotiations initiated earlier in the same sense continue their course, i.e. with Mercosur, the Gulf Cooperation Council, the Euro-Mediterranean Region and the countries along the new Eastern frontier (these last two groups of countries are within the framework of the European Neighbourhood Policy).

Authorisation to negotiate Free Trade Agreements with Russia and Ukraine are also on the agenda with the prerequisite of their first concluding their access

negotiations with the World Trade Organisation. Ukraine has just formally become a member of this organisation meaning that negotiations will commence immediately.

We should also recall that the agreements already concluded with Mexico and Chile include clauses that envisage review and further negotiation thus setting the stage for probable new negotiations once the Doha Round has drawn to a close.

Exercises have been conducted with the United States, Canada, Japan, Australia, New Zealand and China to identify ways to improve bilateral relations but these are not Free Trade Agreements; in other words, they are non-preferential type agreements.

Spain is a firm believer in these negotiations and feels that the countries and regions proposed by the Commission contain elements of economic and commercial interest for our companies or are based on development considerations which, from a broader perspective, allow us to delve deeper into the guiding principles of EU external actions”.

(*BOCG-Congreso D*, IX Leg., n. 65, p. 215).

4. Area of freedom, security and justice

Note: See V.2. Aliens and XI.3. Immigration

a) Immigration

On 02.10.08, in response to a parliamentary query concerning Spain’s position on the “Return Directive”, the Government stated as follows:

“(..)

Spain is in favour of the measures implemented by the Community institutions which give a boost to the fight against illegal immigration and this is the basis of the position taken by Spain during the debates on the proposed Directive.

The text of the Directive, the topic of many negotiations in which Spain has actively participated, is balanced and grounded on two indivisible cornerstones supported by Spain throughout the entire process:

- the effectiveness of repatriation proceedings targeting illegal immigrants;
- full respect for fundamental rights.

In this connection, the following observations should be made:

- This Directive is not an instrument designed to expel illegal immigrants on a grand scale; its aim is rather to establish a common procedure at European level to individually study the personal situation and, as the case may be, the repatriation of the immigrant.

- Under this Directive, in some EU Member States immigrants will have more guarantees when return proceedings are applied, and the Member States already providing these guarantees (such as Spain) will not be required to lower them. Maximum limits and protection standards for all of the European Union will be guaranteed given that there are still some Member States that, for example,

have no maximum limit on internment which in Spain is now 40 days. After the entry into force of the Directive the internment period will still be determined by national law but the Member States will have to abide by the maximum period established in the Directive and therefore unlimited internment, which has been the policy in some Member States up to now, will be prohibited.

- The purpose of internment envisaged in the Directive is in line with the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and allows for the preparation of the repatriation of the immigrant which should take place as swiftly as possible. In its recitals, the Directive also expressly establishes that Member States have the authority to return illegal immigrants provided that they have efficient and fair asylum systems in operation.

2. A brief analysis of the draft Directive indicates that:

- It does not prevent Member States from maintaining or implementing conditions that are more beneficial for illegal immigrants than those laid down therein (Article 4).

- Protection of the rights of minors was considered vital and Spain has played an active role in making sure that measures respect the greater interests of children (keeping family units together in the case of internment, guarantees in the repatriation of unaccompanied minors, the possibility of having access to education, etc.).

- The Directive provides for voluntary return (except in cases where the illegal immigrant is a flight risk) for which a voluntary departure period of at least 7 days is given (Article 6a) allowing the immigrant facing an order to return to leave the territory of the Member State of the European Union by his own means thus avoiding executive expulsion and the ensuing consequences (this aspect is not covered in many national systems, including that of Spain).

- The maximum period during which entry may be denied (Article 9) as the result of a return decision may not, in general terms, exceed 5 years (but can be extended under exceptional circumstances). In some national systems this period is unlimited and in Spain is 10 years maximum.

- The draft Directive dictates the return procedure (Articles 11, 12 and 13) which must always be reasoned and put in writing (indicating factual and legal grounds) and appending information on appeal channels available and a series of rights while awaiting return (family unit, schooling for minors, health). In this regard, the Directive follows the approach taken under Spanish law providing a protectionist proceeding always with the possibility of appealing to legal bodies.

Lastly, regarding internment in special centres for illegal immigrants and the conditions of their stay there (Articles 14, 15 and 15a), it is important to point out that other less coercive measures cannot be taken and only under certain circumstances. Internment (not to be confused with arrest) is regulated by a maximum duration of 6 months, in principle, extendible for a further 12 months when the immigrant fails to collaborate or when there are delays in obtaining documentation from third countries for identification purposes. Arrangements

are made for the intervention of legal bodies and a series of rights applicable throughout the stay are stipulated and guaranteed (contacting, in due time, legal representatives, family members, competent consular authorities, relevant international and non-governmental organisations and others).

It also points out that approval of the Directive will not be a merely regulatory measure because the European Return Fund will be implemented at the same time. This Fund's budget is pending allocation because it is currently blocked by the European Parliament which has required the prior approval of this Directive.

3. Throughout the whole process, Spain has contributed to the approval of the Directive within the shortest possible time frame but with a comprehensive and balanced approach safeguarding the effectiveness of return measures from an operational point of view and respect for procedural guarantees and the dignity and human rights of repatriated persons. We should recall that throughout the negotiations, Spain has defended a constructive position in holding the view that, under no circumstances, should this Directive entail a lowering of the protection standards that we have in our legislation or in the guarantees that immigrants facing return have available to them".

(*BOCG-Congreso D*, IX Leg., n. 99, pp. 510–512).

In his appearance before the Joint Committee for the EU of the *Cortes Generales* on 14.10.08, the Secretary of State for the EU stated as follows:

"...immigration policy is one of the major contributions of our country to the Union's common policies with its very concrete measures and noteworthy collaboration and coordination with the countries of origin; so much so that African countries of origin have opened embassies in Spain and readmission agreements have been signed with them. Last year there were 56,000 returns...meaning that relations established with the countries of origin are bearing fruit. Unaccompanied immigrant minors are a serious problem and therefore...presently the Commission is going to draft, with our support, an additional declaration on the problems that the reception of these unaccompanied immigrant minors (Spanish acronym MEINA) poses for Spain, particularly in the Canary Islands and Andalusia. You are all familiar with this problem and we intend to prioritise it through a legal office for minors to be treated differently from other groups of immigrants. Frontex, the European External Borders Agency is also assisting in this process. Spain has been assigned the second phase of the theme-based programme on immigration and asylum entitled Project SeaHorse Coordination Centre for the prevention of clandestine departures from Africa to the Canary Islands providing for the creation of coordination and information centres in an atmosphere of cooperation and dialogue between European and African partners. In this regard, Spain is in close contact with African countries such as Morocco, Senegal, Cape Verde, Mauritania and Gambia. The Ministry of Labour and Immigration has also approved a project targeting unaccompanied minor immigrants with a specific focus on Senegal to prevent their clandestine departure...".

(*DSCG-Comisiones Mixtas*, IX Leg., n. 18, p. 19).

On 25 November the Secretary of State for the EU appeared again before the same Commission and stated as follows:

“(…)

This is undoubtedly a crucial moment in history. On October 15th the European Council will adopt the European Pact on Immigration and Asylum. This is the culmination of a long series of efforts now reaching their climax at the Spanish-French summit to be held in January of this year. Spain and France are the two countries pushing for the European Pact on Immigration and Asylum. They are spearheading the initiative and negotiating with the rest of the countries and later Germany came on board which will give it quite a lot of strength at the JHA Council meetings and within the European Council...this European Pact introduces, accepts and takes on...the policy line on immigration which the Spanish Government has been implementing, i.e. the Spanish immigration policy model, naturally with the contributions of many other countries from other ambits. I must also mention, for example, the case of asylum where the contribution of the Nordic countries is very important...and the future will include common procedures for the examination of and decision concerning asylum cases.

...there are three essential pillars supporting this immigration policy: the first is that immigration is a positive phenomenon and not a negative burden, that it is essential for the development and progress of our societies. In countries like Spain, Germany, France, the United Kingdom or Italy, the big EU countries, figures show that immigrants account for close to 10% of the total population...In our case, some economic studies have come to the conclusion that half of the growth that Spain has enjoyed over the last several years – very fast growth creating lots of employment although we know that now things have changed – is due to immigration...The European Pact on Immigration, therefore, considers immigration as a positive phenomenon and stresses the importance of immigrant integration policies in our societies, for example immigrant rights defence policy and the duty, acceptance and obedience to law policy that immigrants have when they come to a country.

The second fundamental element...is the fight against illegal immigration. Given that there are legal immigration channels, channels that must not be constrained but should allow for the regulation of migratory flows, illegal immigration does not make sense and has only negative consequences as a breeding ground for organised crime such as the mafias trafficking in human beings. Therefore, combating illegal immigration is one of the main focal points of the European Pact on Immigration.

The third and most important element in European immigration policy is the novel cooperation and coordination policy with the countries of origin; this is a fundamental element...Spain has established a very important cooperation policy...with countries...from a specific geographical area, i.e. the African countries closest to the Canary Islands where new Spanish embassies have even been created with a view to bolstering our diplomatic service. In Spain and throughout the rest of Europe a future challenge is the conclusion of pacts,

even at European level, with countries origin. This is vital if we expect to adequately prevent or combat illegal immigration. It is also essential for an effective return policy which requires the collaboration of the countries where illegal immigration originates.

The implementation of this common policy on immigration rests on these three elements. This policy already up and running the Union and is called the European Pact on Immigration and Asylum and Spain will be called on to evaluate it because we managed to introduce in the text...a clause calling for the first evaluation of the implementation of this agreement by all European countries during the Spanish Presidency. This agreement will be implemented in accordance with a series of obligatory elements binding for Member States and will be evaluated. As concerns immigration, our Presidency has taken on special importance given that, under our supervision, Europe will evaluate the way in which this European Pact on Immigration and Asylum is implemented”.

(DSCG-Comisiones Mixtas, IX Leg., n. 28, pp. 11–12).

5. External/Foreign Relations

a) United States of America

In response to a parliamentary query concerning the US-EU Summit during the Spanish Presidency, on 14.10.08 the Government reported that:

“Spain has always conferred strategic importance to transatlantic relations and therefore we actively worked to strengthen relations with the United States during the two previous Spanish Presidencies of the EU. In 1995, Spain promoted the New Transatlantic Agenda which contributed decisively to the institutionalisation of political dialogue and economic cooperation between the EU and the US and has served as a model for successive initiatives put forward since that time by different Presidencies. Spain also contributed decisively to the creation of the EU Council Working Party on Transatlantic relations known as COTRA. 2010 will mark the 15th anniversary of the New Transatlantic Agenda thus making it the right time to re-launch the tradition of dialogue and joint work between the EU and the US.

During our upcoming EU Presidency transatlantic relations will be a clear priority and we will contribute to renewing it and steering it in the direction of the most important challenges posed by globalisation and the current international context.

Work needs to be done in the following fields:

1. Safeguarding of the universal values and principles constituting the basis of the Transatlantic Alliance. Issues such as Guantanamo Prison, the death penalty or the way to promote democracy in the world currently separate us rather than unite us. We must find ways to reach understanding and agreement because they are at the very core of the principles underpinning our Alliance.

2. Give new ambition to the transatlantic dialogue. This will entail fine-tuning our positions on issues such as the transformation of NATO, Afghanistan, Iraq, the proliferation of weapons of mass destruction, and others.

3. Build a true European Pillar of Security and Defence. A stronger European security and defence policy is in the best interest of the Union and the US within the framework of the Atlantic security and defence system. A European defence system is indispensable for an effective alliance and the US promotes this.

4. Focus on the conflicts in the Near and Middle East. In this connection, the US should work together with the EU in resolving these conflicts.

5. Renew and reinforce the strategic dialogue. The importance of commercial and financial flows between the two shores of the Atlantic should allow the US and the EU to exercise greater influence over the regulation of international markets and in rebalancing the international system. This is necessary if we expect to achieve energy and food security and in order to combat poverty and underdevelopment.

And lastly, during the 2010 Presidency Spain will continue to enthusiastically support existing initiatives in the area of regulatory cooperation between the EU and the US which have proven to be an essential tool for the removal of obstacles to trade and investment and for the generation of opportunities and well-being for economic operators, citizens and consumers on both shores of the Atlantic”.

(*BOCG-Congreso D.*, IX Leg., n. 99, pp. 543–544).

b) *Latin America*

Note: See I. International Law in General, and XI.2.a) *Latin America*

In his appearance on 25.06.08 to report on the June 2008 European Council, the President of the Government stated as follows:

“Particularly positive for Spain was the European Council’s Lima Declaration formulated at the recent European Union-Latin America and Caribbean Summit and the Council’s commitment to conclude negotiations between the European Union and sub-regional organisations in Latin America from now to 2009. Over the last several years this has been a priority objective of our external policy and we trust that during our Presidency in 2010 we will be able to successfully conclude this agreement process with the different regions of Latin America and Europe”.

(*DSC-P*, IX Leg., n. 19, p. 8).

In response to a parliamentary query on the EU-Latin America summit, the Government made the following statement on 14.10.08:

“The sixth Summit of heads of State and Government of the European Union, Latin America and the Caribbean (EU-LAC) will take place during the first half of 2010 under the Spanish Presidency of the EU.

The specific issues and objectives of the biannual EU-LAC Summits are defined jointly among the 60 member countries of the Strategic Association through dialogue mechanisms established for that purpose. Our aim is to more actively engage the Parliaments and civil society in the preparatory phase of the EU-Latin America and Caribbean summit with a view to strengthening the legitimacy and effectiveness of our joint action. As for Europe, coordination and preparation of the upcoming Summit will be initiated by the 2009 EU Presidencies. Concurrently, as from July 2008 to 2010, Argentina will co-chair the Summit representing the countries of Latin America and the Caribbean. Spain must play a relevant role in this process and to that end will work very closely with Argentina, the European Commission and the rest of the Member States.

Over the next few months work will begin on the joint bi-regional monitoring of the commitments assumed at the recent Lima Summit with special mention of the Lima Agenda on “Poverty, Inequality and Inclusion” and “Sustainable development: climate change, the environment and energy” and the objective of bolstering specialised dialogue mechanisms between regions, also regarding migratory affairs, a particularly important subject for our country.

The Government is keen on rejuvenating bi-regional relations at this Summit under the Spanish Presidency of the EU Council. To do that, it is advisable to define precise objectives on certain subjects (bio fuels, biodiversity, tax policy, migration) in order to strike agreements and achieve concrete results through specific two-year action plans (until the next summit) which will be specifically monitored and assessed.

The Government will keep a close watch on the negotiation process of Association Agreements with Central America, the Andean Community and MERCOSUR in order to strike a balance between the areas of reinforced political dialogue, trade and cooperation. This is the core strategic objective to round out the architecture of bi-regional relations in an increasingly interdependent international context where openness, innovation, regional integration and the ability to effectively collaborate at multilateral level will have an impact on the socioeconomic development of countries. An effort will be made to deepen relations with the Caribbean countries, a region with which the EU has signed its first Economic Association Agreement and to develop the EU’s strategic association with Brazil and Mexico.

An effort will also be made to create a Euro-Latin American and Caribbean Foundation, as alluded to in the Final Declaration of the Lima Summit, by the 2010 Summit and to see to it that this Foundation contributes to ensuring the visibility, continuity and integrity of the bi-regional Strategic Association and to establish a forum for joint discussion on subjects of shared strategic interest”.

(*BOCG-Congreso D*, IX Leg., n. 99, pp. 544–545).

c) Euro-Mediterranean Relations: the Barcelona Process

In his appearance on 23.07.08 before the Congressional Foreign Affairs Commission to report on the Euro-Mediterranean Summit, the Minister of Foreign Affairs and Cooperation stated that:

“(...)

...The success of this summit is also a success for Spanish interests insofar as it gave renewed impetus to Euro-Mediterranean relations and once again put the Mediterranean at the core of Europe’s political agenda...

(...)

From a political point of view, the summit main effect was bringing Syria out of its international isolation and closing the gap between that country and Europe. Spain has worked hard to bring about this political turnabout in Syria which, in turn, favours its full participation in the peace process and its more comfortable fit in its natural Arab-Mediterranean environment. This is the beginning of closer relations and, if the constructive attitude of Syria with regard to Lebanon is confirmed, could lead to the signing of the association agreement which has been blocked since October 2004 and replace the 1977 cooperation agreement which, for the time being, governs relations between the European Union and Syria.

Despite these advances, the joint declaration was subject to negotiation right up to the last moment...due to differences between Arabs and Israelis concerning a few paragraphs. Spain, upon request by the French Presidency, became involved in seeking an agreement which was achieved in the end. Hence, the Arab League will have permanent invitee status, a consensus solution between the Arab request to include the organisation as an observer and Israel’s refusal to accept that solution...

As for the summit itself, the presentations by heads of State and Government were divided into four thematic blocks: The first was devoted to economic development, food security, water and energy; the second to environmental protection, civil protection and maritime security; the third to education, research, culture and mobility; and the fourth to political dialogue...Rodríguez Zapatero spoke at a session devoted to education and culture and underscored the role of education as the driver behind equal opportunity, especially concerning the incorporation of women, a vital prerequisite for the progress of any society. He advocated Euro-Mediterranean cooperation to lower the still high illiteracy rate which is no doubt the major stumbling block to development, and to enhance the quality of education and its adaptation to the labour market. This is a priority area for Spain in the framework of Euro-Mediterranean relations where we have pressed for unity among universities and educational systems through initiatives such as the Euromed Permanent University Forum working to develop a Euromed area of Higher Education where a major role would be played by the Anna Lindh Foundation for dialogue between cultures which we have recently bolstered to give it greater depth at a time when the socio-cultural dimension of Euro-Mediterranean relations has become a political priority.

The Summit was also the ideal occasion to embark upon the new stage opening up in Euro-Mediterranean cooperation, now the Barcelona Process: Union for the Mediterranean, seeking fairer management in the south in the governance of the partnership... These institutional changes and this greater degree of appropriation will also take the form of the creation of a standing joint committee with seat in Brussels and a secretariat.

The secretariat is the major exception to the rule which says that a partnership of this dimension could not have a common institution capable of driving and lending continuity to the different works, in contrast with other regional associations in which the European Union takes part. The secretariat will focus mostly on monitoring and identifying projects and seeking sources of funding and will have its own legal personality and act autonomously. Its mandate is technical in nature while the political mandate of the Barcelona Process: Union for the Mediterranean continues to be the responsibility of the Ministers of Foreign Affairs and the Committee of Senior Officials. In any case, ...the details of the secretariat's mandate, its seat, makeup and funding must be defined by consensus at the Euromed Conference of Foreign Affairs Ministers scheduled for 3–4 November 2008 in Marseilles.

Regarding the seat, the President of the Government submitted Barcelona as a candidate...

...the summit approved a series of particularly relevant initiatives which will empower certain aspects of the partnership...Of the projects adopted, special mention should be made of two in particular which are of interest for Spain: The Mediterranean business development initiative and the Mediterranean Solar Plan.

The Mediterranean business development initiative is a joint project originally launched by Spain and Italy to spark development in the Mediterranean basin. Its overarching objective is to foster the creation of employment amongst Mediterranean partners and contribute to social stability, the economic integration of both shores of the Mediterranean and to facilitate the transfer of technology and innovation by supporting SMEs, the main source of new employment throughout the region and attractive to investors. This initiative was devised to remedy the lack of access that SMEs have to sources of external financial assistance for the promotion of investment despite their abundance among the partners in the South. This initiative will operate in each participating country together with local entities working in the area of SMEs and micro-enterprises and will offer a wide array of instruments and techniques adapted to local needs with the aim of improving the access that SMEs have to bank finance and the development of external sources of alternative funding and equity financing of the enterprises. It will also include instruments to facilitate SMEs' access to capital markets. As for micro-enterprises, the agency will lend support to the micro-credit institutions providing technical assistance, financing or re-financing and fostering the insurance system.

Having regard to the Mediterranean Solar Plan, this is a project that Spain is very interested in and even more now given the current international situation and is in response to the debate going on in the Mediterranean regions about the need to increase the relative weight of renewables as an energy source. This debate has coincided with the growth of these energy sources in the European Union, driven by the European Commission itself, by some governments and by leading companies in the sector, not few of which are Spanish...The plan will benefit both shores of the Mediterranean. On the one hand, the North African nations would become exporters of an industrial product from an inexhaustible

energy source. Furthermore, the building of the thermo solar plants would entail the creation of an assembling industry and the ensuing creation of thousands of jobs...

(...)

...mention must also be made of the fourth chapter of the Barcelona Process: Union for the Mediterranean focusing on migration, social integration, justice and security. This is an innovative chapter included upon Spanish initiative dating to the 2005 Barcelona Summit where we developed instruments such as the Euromed Code to combat terrorism, an instrument of unquestionable value insofar as it was the first document on terrorism on which agreement was reached in the European Union and among our Mediterranean partners, including Israel. This document establishes a firm commitment in the fight on terrorism and reflects a minimum commonly shared consensus, establishes lines of action and unequivocally condemns terrorism, disassociating it from any religion, country or culture. We must continue working to develop instruments to make it operational and implement it to its full potential”.

(*DSC-C*, IX Leg., n. 61, pp. 2–4).

In his appearance before the Joint Committee for the EU of the *Cortes Generales* on 25.11.08, the Secretary of State for the EU made the following statement:

“(...)

...over the last several months another event has taken place which I believe is very significant in recognising the importance and weight of Spain in the international arena: the designation of Barcelona as the permanent seat of the Secretariat of the Union for the Mediterranean. The Union for the Mediterranean is comprised of 43 countries, all of the EU Member States and all of the Mediterranean countries including those in Africa and part of Asia. These 43 countries unanimously chose Spain as the permanent seat of the secretariat; in other words, the single most important structural element of the Union for the Mediterranean in the future, formally making Barcelona the capital of the Mediterranean (although it already was) and Spain the country of reference in the Mediterranean”.

(*DSCG-Comisiones Mixtas*, IX Leg., n. 28, p. 19).

Nearly one month later, on 18 December, the President of the Government appeared before the Congressional plenum to report on the December 2008 European Council, highlighting the following with regard to the same subject:

“(...)

...The Council accepted the conclusions and guidelines approved at the Ministerial meeting at Marseille on the operation of the Union for the Mediterranean including the decision to establish the seat of the secretariat of this organisation in Barcelona...The secretariat of the seat of the Union for the Mediterranean should be up and running as soon as possible and to that end the Ministry of Foreign Affairs is working with the European Union to implement this renewed

project from Barcelona known as the Union for the Mediterranean and all of the lines of action that the Union has agreed...”.

(*DSC-P*, IX Leg., n. 56, p. 7).

6. Spanish Presidency 2010

The Minister of Foreign Affairs made reference to Spain’s priorities during the 2010 EU Presidency in his 10.06.08 appearance before the Joint Committee for the EU of the *Cortes*:

“(…)

...the Spanish Presidency of the European Union during the first half of 2010 will give us the opportunity to reaffirm our commitment as a European nation and a staunch supporter of Europe... Spain will hold the Presidency of the European Union for the fourth time during the first half of 2010, an especially important challenge on this occasion in light of new and important elements. First of all, we now have a Union of 27 Member States compared to the 15 or 12 members during previous Spanish Presidencies. Secondly, we have a new institutional framework, a recently elected European Parliament with much greater power and a new European Commission. Thirdly, we are also facing a new constitutional framework with the entry into force in 2009 of the new Treaty of Lisbon introducing important institutional changes that will affect our Presidency: a new president of the European Council, the High Representative for Common Foreign and Security Policy, the European External Action Service and the 18-month team presidency system that Spain will inaugurate along with Belgium and Hungary.

The Government has already spent the last several months preparing our future presidency including regular contacts with Belgium and Hungary, the other two members of our team presidency. The content of the programme of our Presidency is being defined based on specific objectives which we will foster during our half-year, on shared objectives of the three team presidencies and on commitments which will highlight the Union’s political and legislative calendar.

Among the main topics which we have defined for our Presidency, special mention should be made... First of all, to actively contribute to making the Lisbon Agenda a reality and paving the way for a new phase in the creation of a more modern and competitive economy based on research, development and innovation and focused on the creation of employment, sustainability and social cohesion in the new cycle of the international economy...

The cycle change initiated in the United States with the market crisis stemming from high-risk mortgages, the so-called sub-primes, and the sharp devaluation of the dollar, together with rising oil and food prices, all make a far-reaching reformulation of the Lisbon Agenda indispensable so that European economies are able to deal with the new international situation in the best possible conditions and at the same time continue forward along the development path following

an economic model based on high productivity able to sustain our European social model defined in the Charter of Rights while also being competitive in international markets. The Spanish Presidency of the European Union should provide specific guidance and establish a road map to achieve this objective.

Secondly, foster the active role of the Union in combating climate change and better management of energy resources and develop a daring and robust European policy for gender equality...The Spanish Presidency will try to get Europe to lead a global response to climate change able to institutionalise, by means of an agreement, this new universally accepted system that we need.

...Spain supports energy measures included in the third energy package presented by the European Commission in September 2007 and in the Energy Policy for Europe Action Plan 2007–2009 approved by the European Council of March 2007 making reference to the famous three 20's: a 20% reduction in greenhouse gas emissions for 2020 with respect to 1990; improved energy efficiency producing a savings of 20% of energy consumption envisaged for 2020; and 20% of all energy consumed in 2020 from renewable sources.

Having regard to gender equality policies, the aim is to guarantee access to and exercise of citizenship with all of the same rights shared by the two halves of the population...Equality policies should also make this full integration into the labour market, responsible to a large degree for the growth and productivity of our economy, compatible with family life, caring for the new generations and support for the aged, without this entailing a second non-remunerated job. Development of the European social model is intimately linked to equality policies which are the backbone of the welfare state. Introducing this issue in a cross-cutting fashion in all Union policies is one of the challenges facing the Spanish Presidency; consistency with our domestic policy in this matter is part of this Government's identity.

Third, reinforce Europe's role in the world as a protector of peace and security achieving what we call European co-existence both within its territory and outside of its external borders. Based on explicit recognition of the international legal personality of the European Union thanks to the Treaty of Lisbon, Spain supports the strengthening of the Union's external action and visibility. In this connection our Government advocates a strong European External Action Service whose scope covers the wide sphere of what is commonly referred to as the external action of the European Union which includes the CFSP, the SSP, the main lines of development cooperation policy, the European Neighbourhood Policy and enlargement. During the Spanish Presidency we will have the task of guaranteeing the success of the summits held during our Presidency: European Union-Latin America-Caribbean, European Union and the United States, European Union and Russia and European Union and Canada, and especially the task of giving a renewed boost to the Barcelona process which is the backdrop for the Union for the Mediterranean proposal.

In addition to these three major areas, Spain will work especially hard on the consolidation of the area of freedom, security and justice and on giving an

effective and comprehensive response to the challenge of immigration...The global approach of the European Union on migration, backed from the outset by Spain, sets the stage for a true common migratory policy in the European Union. This instrument offers a global vision of the migratory phenomenon insofar as it fosters legal immigration and co-development while at the same time combating the human drama that illegal immigration poses. Spain is deeply engaged in the enforcement of measures that approach immigration from the dual perspective of challenge and opportunity...The European pact on immigration proposed by France...is one more step in this direction and therefore Spain supports it. Our country has actively participated in its development and the Spanish Presidency will be the crucial moment to guarantee the implementation of the measures it contains. And lastly, during our Presidency we must examine and debate the conclusions of the think-tank on the future of Europe that the chair, Felipe González, will present...”.

(DSCG-Comisiones Mixtas, IX Leg., n. 7, pp. 3–5).

Subsequently, on 18.11.08, the Secretary of State for the EU appeared before the Joint Committee to explain the efforts being made by the Government in preparation for the Spanish Presidency:

“(...)

...The international context surrounding this Presidency is clearly one of international financial crisis which has also contaminated an important part of the real economy and it goes without saying that this situation will condition the Spanish Presidency...

In an international situation such as this, as was evident at the Washington Summit characterised by a change in the world’s main political players, there is clear multi-polarity...Hence, this is also part of the international context; this is a new situation featuring a change in the geopolitical structure where the US election and the new President are particularly relevant. The new President has arrived with the clear aim of changing some of the basic aspects of the policies implemented to date by the United States. Therefore, there is an expectation of improvement, of a deepening of US-European relations and with other countries, and this undoubtedly forms part of the international context and will play a role in the Spanish Presidency because, among other events, during the Spanish Presidency a European Union-United States Summit will be held.

As for the situation of the European Union, we will also have a new moment, a new stage that...is also affected by a degree of uncertainty about the future of the Treaty of Lisbon and the institutional changes arriving on the coattails of the Treaty of Lisbon: an elected President of the European Council, a High Representative for Foreign Affairs and Security Policy unifying the current posts of High Representative for External Policy and the Commissariat in charge of these issues, the topic of external relations at the Commission, the emergence and development of a European External Action Service...devised as an early alert mechanism for national parliaments in their implementation of the principle

of subsidiarity. All of these elements are found in the Treaty of Lisbon which must be ratified by the 27 Member States in order to enter into force and, if that is the case, naturally it will affect the Spanish Presidency.

Furthermore, our Presidency is going to take place in the midst of a new political phase in the Union because the European Parliament will be renewed in June of next year and the new Commission will also take office probably between October and November of next year. Therefore, Spain will inaugurate its presidency with a new institutional and political panorama in the Union; we are on the verge of a new stage and this will mark and give character to the Spanish Presidency of the Union...

The Government has already started to prepare the Spanish Presidency... The so-called Organising Committee of the Spanish Presidency of the EU Council was created by virtue of Decree 1722/2008 of 20 October 2008 which was published in the Official State Gazette on 21 October. That Royal Decree creates this Organising Committee of the Spanish Presidency of the EU Council, attached to the Presidency of the Government, whose aim, as expressed in Article 1 of the Decree, is to programme, plan, coordinate and execute the activities of the public administrations, institutions and organisations needed to fulfil the responsibilities of the Spanish Presidency of the European Union during the first half of 2010.

We are now preparing a draft programme, naturally in collaboration with the High Representative for the Spanish Presidency of the European Union, under the auspices of the Secretariat of State...

...we are striving for a very Europe-centred Presidency,... profoundly inclusive. We must all take part in this Presidency, not only the General State Administration but also political and social players, the Autonomous Communities, the Town Halls and all of the preparations are moving in that direction to make this Presidency a team effort involving everyone; the best formula for success in this Presidency...

...closing the gap between the Union and European citizens is another of the objectives of this Presidency and, in so doing, we are especially focusing on social aspects with a particular accent on gender equality... The European Union must also commit to all social aspects; citizens' rights must be the focus of the European Union and that is why Social Europe must be one of the basic elements of this Presidency... And naturally, a Europe with its own voice in the international arena giving it strength both internally and externally because the vocation of the European Union in the 21st century is to engage with the outside world with one single voice... It goes without saying that, in this regard, this Presidency will have to pay particular attention to the ideas put forward by the group led by Felipe González, created to arrive at some conclusions on the future of Europe, conclusions which will be submitted to the European Council during the Spanish Presidency during the first half of 2010.

...this will be a team Presidency, a joint Presidency with Belgium and Hungary... That is why this Presidency has been prepared from the outset together with Belgium and Hungary, our partners and the countries that will follow us

in the Presidencies of the Union Council... We want Spain to inaugurate this new team Presidency model and, to that end, we held a pre-summer meeting in Brussels to begin drafting what could be a draft joint programme. We then held a Meeting in Madrid on 24 September and will have our next meeting in Budapest on 16 January where we hope to approve a draft programme; obviously this is a draft because we still have a year before our Presidency begins and a year for the approval of that programme, as the case may be, by the General Affairs Council; this is a provisional draft programme which will eventually become the 18-month joint programme for 2010–2011.

This team Presidency has already taken some organisational agreements in terms of the programme... This is the first time that the European Union will have a logo, a common symbol for the three Presidencies which will continue during 18 months rather than ending after 6. This shared logo symbolises the need for cooperation and collaboration amongst the three countries and we want this to be visible. Naturally, each of the three Presidencies will individualise this logo but it will have a shared background.

...a shared Web page is also advisable. This was a Belgian proposal and our idea is to communicate this cooperation and collaboration of the 18-month shared Presidency on the Internet, although, from a legal and practical standpoint, each six months one country will organise its own Presidency but with the collaboration of the other two, the impetus of the other two and the shared ideas of the other two countries.

...we have already approved some of the initial important aspects... First, institutional issues. This will depend on what happens with the Treaty of Lisbon...

...The renewed social agenda for 2010 is going to be a reality because it coincides with the renewal of the European Social Agenda. Moreover, 2010 is the European year for combating poverty and social exclusion and for gender equality; an especially appropriate year to delve deeper into some social aspects and to bolster the European Union's social dimension.

The Lisbon Strategy, another priority... During our Presidency we have the interim evaluation of the VII Community Framework Programme with an accent on growth while reinforcing European competitiveness and the creation of employment. It is important to recall that during the tripartite Presidency we will be preparing and launching the second phase of the renewed Lisbon Strategy 2011–2013 based on the Commission's post 2010 evaluation. Therefore Spain, as in so many other aspects, finds itself at a strategic crossroads in the life of the European Union, not only due to the international context..., but also because major Union policies are concluding and new periods and policies are being launched.

...The European Union and all of its institutions are joining forces to combat the crisis head-on and the best possible way out of this crisis, within the prevailing international context, is through international collaboration and coordination...

We will also be reviewing the Community budget during our Presidency and negotiations will get under way for upcoming financial perspectives, an important

element for all countries and of course for our own and its economic development. Discussions on the review of the Community budget may conclude during the Spanish Presidency and these will be preceded by a Commission White Paper scheduled to come out in the middle of next year...and the discussion in the Council will continue during the Spanish Presidency...Also during the Spanish Presidency work will be done on the Commission's submission of proposals for the new financial framework, the so-called 2011 financial perspectives which foreseeably will continue through the Hungarian Presidency but within the tripartite team Presidency 2010–2011.

Another of the priorities of the Spanish Presidency, a very concrete one, has to do with the European area of freedom, security and justice... A programme is currently being drafted paving the way for significant progress... called The Hague programme which concludes in 2009. That is why Sweden and its Presidency, which precedes Spain, has the task of developing a new programme which we believe should be called the Stockholm Programme... because it will be drawn up during the Swedish Presidency... that Stockholm Programme... will have to be implemented through an action plan during the Spanish Presidency...

Another major priority: energy and climate change. Here, once again, it is not very clear what could happen in this respect; First of all, we have the European Council in December... It will depend on what comes out of the 2009 Copenhagen conference on climate change and renewable energies and Spain, during its Presidency, will immediately begin work on the agreements reached at that Summit. During its Presidency, Spain will be working on that implementation which is of maximum strategic importance.

The II Tri-annual Energy Action Plan 2010–2012 should also be adopted at the 2010 Spring European Council. This Plan will focus on issues such as energy efficiency, security and diversification in the European Union.

Another of our priorities, also agreed with the other two countries, is the enlargement of the European Union. We are in favour of the enlargement of the European Union... currently there are three countries with candidate status: Croatia, Macedonia and Turkey. Croatia is the most advanced in its negotiations and it could become a member of the European Union during the team Presidency that Spain will initiate in 2010...

The European Neighbourhood Policy is another of the aspects, related to the preceding one, which has become particularly important in the European Union over the last several years... here I must make reference to the important achievement of our country which I think is an accomplishment for everyone, in Spain and also outside of Spain, because it was a decision taken by 43 countries, all of the EU Members and the Mediterranean countries which chose Barcelona as the seat of the Permanent Secretariat of the Union for the Mediterranean. This makes Spain the most strategic location – it already was – for Europe's Neighbourhood Policy and Europe's external relations in the Mediterranean, that very important zone not only in economic terms but also for political stability and so subject to destabilisation, as everyone knows. We are very keen on making this one of the priorities of our Presidency.

And lastly, I would like to refer to the topic of external relations. Important summits between the European Union and third countries or groups of countries will be held during the 18 months of shared presidency. Specifically, during the first six months, we will have the Summit with Latin America as the follow-up to the one in Peru. Every two years this Summit is held in Spain and on this occasion the very important Latin American Summit will coincide with our Presidency and the launching of the bicentennial celebrations of independence. At that Summit we expect to be able to come to some sort of agreement or association with Latin American countries and also with the United States. During the Spanish Presidency we will have the first EU-US Summit to be held on European soil at a time when the new US Government, with Barak Obama as President, can firmly address important elements of the so-called Transatlantic Agenda. Therefore, our Presidency will be very Euro-American in light of these two very significant events, the two summits with Latin America and the United States. Naturally, there will be other summits corresponding to areas or regions of preference for the European Union's external relations, for example with Africa at the European Union–Africa Summit, with ASEM in Asia or the Union for the Mediterranean that I mentioned earlier during the team presidency. At the upcoming Union for the Mediterranean Summit, with Barcelona in full operation as the permanent seat of the Secretariat of the Union for the Mediterranean, we hope to get started on some of the projects pending implementation within the scope of the Union for the Mediterranean.

(...)

(*DSCG-Comisiones Mixtas*, IX Leg., n. 26, pp. 3–7).

7. Peacekeeping Missions

Note: See XVI.1. Spain's participation in Peacekeeping operations

a) EUROMARFOR

Note: See XII.1.b) *UNIFIL (Lebanon)*

b) EUFOR-CHAD-CAR

The Minister of Foreign Affairs and Cooperation stated as follows in his appearance before Congress on 29.05.08 to request authorisation for the participation of a Spanish contingent in the EU Operation in Chad and the Central African Republic:

“...I will now go on to talk about a new mission for our country whose destination is Chad and the Central African Republic. Subject to your authorisation, Chad will be our fifth peacekeeping mission abroad following missions in Bosnia, Kosovo, Afghanistan and Lebanon and will no doubt benefit from the experience gained in all of them and the good work, dedication and preparation of our soldiers. The area is currently immersed in an important crisis caused by a number of different factors posing a threat to the peace and stability of

the countries affected and the entire area. This conflict is in the Darfur region and is an internal conflict in Chad between government forces and rebel groups which has caused at least 180,000 displaced persons. In addition, there are armed groups comprised mostly of ex-soldiers acting as bandits on a spree of pillage and robbery. On 24.04.08 the Chadian Armed Forces declared a state of red alert...

...In response to the need to take action in the area, in September 2007 the Security Council passed Resolution 1778 authorising the deployment of the so-called Minurcat mission in the area with the principal aim of contributing to the creation of the conditions necessary for the voluntary, safe and sustainable return of refugees and displaced persons who were forced to leave their homes and areas of origin, especially in the Darsila region. The United Nations resolution also envisages, based on the provision of Chapter VII of the United Nations Charter, the deployment of a European Union force called Eufor Chad/CAR. This operation has been set up to last one year and therefore should conclude on 15 March 2009 unless the security conditions in the area are such that it could end before that date. This Force will take charge of providing a safe environment so that Minurcat can complete its task. In short, the aim of the mission is to protect civilian and United Nations personnel in danger and facilitate the movement of humanitarian personnel and the distribution of aid. The legal basis of this action can be found, first and foremost, in EU Council Joint Action of 15 October 2007 approving the undertaking of that military operation and Decision 101/2008 of 28 January 2008 authorising the launch of the Eufor Chad/CAR operation. Before 15 September 2008, the European Union will, together with the United Nations, submit an evaluation of Eufor Chad/CAR relief needs. The Eufor mission will be operating in the Eastern part of the Republic of Chad and to the Northeast of the Central African Republic in an area measuring approximately 212,500 square kilometres, nearly half the size of Spain. It will also include lines of communication, airports, logistical elements and the military headquarters in those countries. The Force will be comprised of 2,400 people from different countries, France being the one contributing the most followed by Ireland, Sweden and Austria. They will be deployed at the general military headquarters and in the three areas of operation where battalion units will be stationed.

...As has been stated on a number of occasions, Spain is firmly committed to Community action in this sphere and within the framework of the European security strategy...

The Spanish contingent prepared for this operation will be comprised of a maximum of 100 soldiers and will include two medium-sized C-295 transport planes. Soldiers will be deployed as follows: a maximum of 11 at the military headquarters and in Chad and a maximum of 89 soldiers acting as operations, security and information logistic support and communications personnel. The Spanish contingent will be deployed in two detachments: the two aircraft and logistic support elements, communications personnel and part of the personnel to be stationed at the headquarters will be deployed at Yamena. A support team

and the rest of the personnel stationed at the headquarters will be deployed at Abeche. We will also incorporate personnel from the operation in Paris at the military headquarters. The aircraft will carry out inter-theatre transport missions initially between Yamena and Abeche, the only two locations with landing strips meeting the minimum necessary conditions. They will be based in Yamena and will have the load release capacity to provide logistic support for the Eufor detachments. They have been assigned three specific tasks: participate in the logistic support of the Eufor-Chad-Central African Republic forces; provide air mobility to the forces, including reserves, and support, as needed, for the evacuation of the injured.

...we will participate at the three levels of operation (strategic, operational and tactic) focusing on the areas of operation (intelligence, logistics and telecommunications) of the different military headquarters. The authorisation of this Chamber is needed to deploy Spanish troops and resources as expediently as possible with the assurance that the necessary measures will be taken for the protection of the force both in terms of the safety of the personnel and equipment used and health-care measures taken. These measures will be the ones typically employed in operations abroad...

The current situation of Chad and the Central African Republic calls for the presence of the United Nations and Spain cannot ignore this situation. That is why the authorisation of this Chamber is requested for participation in the Eufor-Chad-Central African Republic operation in support of Minurcat with a maximum contingent of two transport planes and a maximum of 100 soldiers broken down as I mentioned earlier and as laid down in the Cabinet agreement of 23 May...".

(DSC-C, IX Leg., n. 31, pp. 5–6).

8. Lisbon Strategy: Liberalisation of the services sector

In response to several parliamentary queries on the transposition of the Directive on services in the internal market, on 01.10.08 the Government responded as follows:

“(...)

In compliance with the aims of the Lisbon Strategy, Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (hereafter the Services Directive or SD) entered into force on 28.12.06.

The aim of the Directive is to create a legal framework to remove the obstacles standing in the way to the free establishment of service providers and the free movement of services among Member States, guaranteeing providers and receivers of services the legal certainty necessary for the effective practice of these two fundamental freedoms laid down in the EU Treaty.

The Government has announced an important structural reform of the services sector in Spain targeting the effective reduction of obstacles hindering activity in the sector with a view to encouraging productivity, increasing the

variety and quality of services and reducing the prices paid by consumers and enterprises for activities such as commercial distribution, professional organisations, catering, etc.

Along these same lines, the so-called professional services will also be reformed thus extending the effect of the Services Directive to professionals. Before the end of the year a preliminary draft law will be submitted to the Cabinet to bolster the principle of free access to these professions favouring their joint practice, removing unjustified restrictions to competition and, at the same time, reinforcing the protection of users and consumers and boosting the modernisation of professional organisations.

In his inauguration speech before Congress on 08.04.08, the President of the Government established the demanding and effective transposition of this Directive as a line of action set for this legislative period.

In essence, these two far-reaching programmes will provide for the fostering of good regulatory practices, simplification of administrative procedures, reinforcement of administrative cooperation systems and bolstering of the defence of consumers and users. This will give rise to gains in efficiency, productivity and employment and an increase in the variety and quality of the services available for companies and citizens as the result of more effective competition”.

(*BOCG-Congreso D*, IX Leg., n. 89, p. 226).

XIV. RESPONSIBILITY

1. International Terrorism

Note: See XI.4. Terrorism

In his appearance before the Security Council on 19.03.08, the Spanish representative, Mr. Yáñez-Barnuevo, outlined Spain’s position on the issue “Threats to peace and international security caused by terrorist acts”:

“First I would like to reiterate the firm commitment of Spain in the fight against all forms of terrorism, whatever may be the motivation, and our wish that this struggle be an ongoing priority on the agenda of the international community and thus of the United Nations.

Terrorism is a global problem that can be effectively addressed only if we act in a decisive and coordinated manner. To that end, my Government is convinced that multilateral action is an indispensable approach for dealing with terrorist barbarity and wishes to emphasize again the central role that the United Nations should play in order to ensure legitimacy for the common efforts undertaken by its Member States and by international organisations, always in strict compliance with their obligations under international law.

The work accomplished by the Counter-Terrorism Committee (CTC) and its Executive Directorate over the last few years has been particularly relevant in serving to promote and monitor compliance with Security Council resolutions

1373 (2001) and 1624 (2004). Four years have gone by since the establishment of the Counter-Terrorism Committee Executive Directorate (CTED), and now it is time to assess the progress that has been made by the Executive Directorate in fulfilling its mandate. Spain does this with particular satisfaction, as it was one of the first driving forces in its development during its term on the Security Council in 2003 and 2004, and because it chaired the CTC. Also, the first Executive Director of CTED, Mr. Javier Rupérez, was a Spaniard.

Since then Spain has continued to actively support CTED and remains committed to the development of its objectives. That commitment is manifested in the technical assistance that we have provided to various regions of the world and in various areas of activities such as legislative development and the fight against terrorism and its sources of financing, and in areas such as border control or the work carried out by police and security forces. Moreover, Spain has cooperated in the financing of activities such as the CTC's Fifth Special Meeting on the Prevention of Terrorist Movements and Effective Border Control, which was organized by CTED with various international, regional and sub-regional organisations in Nairobi in October 2007.

We appreciate the recommendations made earlier by the Executive Director of CTED, Mr. Smith, aimed at modifying the Directorate's organisational plan, which proposes to update the scope of its functions, improve its tools, reform its working methodology and adapt its operational structure to the new needs and challenges that it faces. The presentation of this new organisational plan is a step forward and deserves our acknowledgement.

Spain welcomes the adoption of the revised organisational plan by the CTC under the skilled chairmanship of Croatia. We also approve the extension of the mandate of CTED by the Security Council.

We consider it very important that CTED should be able to continue to develop its work of assisting the CTC in fulfilling its mandate and to continue its efforts to strengthen its role as a facilitator of technical assistance between donor and recipient countries, to promote dialogue with Member States, intensify cooperation with international organisations, improve information on its work and step up cooperation with other specialized committees of the Security Council as well as with other United Nations bodies.

In September 2006, the General Assembly adopted by consensus the United Nations Global Counter-Terrorism Strategy and its Plan of Action (General Assembly Resolution 60/288). For the implementation of this Strategy and Plan, an implementation team was put into place to coordinate the 24 units involved in this task within the United Nations system and beyond. Among the new challenges that CTED identified was the need to ensure its active participation in the work of this implementation task force, thus contributing towards coordinated and cohesive action within the United Nations. A year and a half has gone by now since the adoption of the Global Counter-Terrorism Strategy and efforts should indeed be redoubled in order to ensure its effective implementation. In order to make effective progress towards that goal, it is crucial that we enhance and increase coordination and collaboration between the General Assembly and

the Security Council in all areas pertaining to the fight against terrorism. This is the challenge that we all must face and where we must spare no efforts”.

(S/PV.5855; pp. 26–27).

In his appearance before the Security Council on 09.12.08, the Spanish representative, Mr. Yáñez-Barnuevo, outlined Spain’s position on the issue “Threats to peace and international security caused by terrorist acts”:

“The world continues to be shocked by the terrible events that took place recently in Mumbai – indiscriminate terrorist acts against the civil population, which have led to universal condemnation. Likewise, a few days ago, Spain once again became a victim of the scourge of terrorism, as have so many countries in the more or less recent past. The international community cannot remain impassive in the face of this terrorist violence that affects us all, kills innocent people, attempts to undermine the enjoyment of human rights and liberties and has destabilizing effects that threaten peaceful coexistence of nations.

It is therefore necessary to bring about firm and sustained multilateral action, in which the United Nations would play a central role as a guarantor of international law and would coordinate the actions of States and regional and universal organisations in their fight against terrorism.

The United Nations system has played an important role in the fight against terrorism. That is why it has important legal instruments, such as the 16 international conventions and protocols that exist on this issue, in addition to the numerous resolutions and decisions adopted by the General Assembly and the Security Council and other measures adopted by specialized organs and committees, including subsidiary bodies to this Council. The international community took an important step forward in September 2006, when the General Assembly adopted by consensus, the United Nations Global Counter-Terrorism Strategy and its Plan of Action, which sought to draw on a package of legal and political instruments to develop a collective and exhaustive plan to counter terrorism. The effective implementation of the Strategy must be a priority for all and the final success will depend, essentially, on the political resolve of the Member States and on the coordination efforts deployed by this Organisation.

I would like to reiterate the firm commitment of Spain in the fight against all forms of terrorism, regardless of its motivation or manifestation, and it is the wish of my Government that this work be a permanent priority in the United Nations agenda, since effective multilateral action is essential in view of the nature of the threat.

Spain has suffered greatly at the hand of terrorist violence and is therefore working domestically and internationally to prevent and combat it. Given our cumulative lengthy experience in this area, we are convinced that this difficult task can only be successful, if the fight against terrorism is waged in strict compliance with international law, with the highest priority given to law and human rights and with resolute international cooperation. Spain played an important role in the drafting and adoption of the United Nations Global Counter-Terrorism Strategy, and it is one of the major contributors to the Counter-Terrorism Implementa-

tion Task Force of the Secretary-General in the fight against terrorism, which is working for the coordinated implementation of the four key components of the Strategy throughout the United Nations system.

Spain has therefore participated in a number of initiatives to address the conditions that are conducive to the spread of terrorism in areas such as the peaceful settlement of conflicts, peacekeeping and peacebuilding operations, development assistance and providing relief for the victims of terrorism.

Moreover, Spain has actively promoted the Alliance of Civilizations, an initiative launched by the Secretary-General that seeks to promote mutual understanding and cooperation between States and peoples of all cultures and religions on the basis of the principles and values enshrined in the United Nations Charter and the Universal Declaration of Human Rights, in order to address every form of extremism and fanaticism that could contribute to violence.

Spain is also justifiably proud to have been the first State to have ratified the 16 international instruments developed within the United Nations system with regard to the fight against terrorism. We have also financed technical assistance initiatives for the Counter-Terrorism Committee Executive Directorate and the United Nations Office on Drugs and Crime, as well as activities launched by other specialized entities within the United Nations system.

Terrorism poses a serious threat to international peace and security. Its effects on innocent people in every region of the world are devastating, and it seeks to undermine the supreme values enshrined within the United Nations Charter. The time has come for all Member States, under the leadership of this Organisation, to show firm political resolve to address this barbarism and to use all measures available to the United Nations under the Charter.

We must take steps forward and seek to align our positions in order to be able to adopt a comprehensive convention on international terrorism in the near future. That convention is currently at an advanced stage of negotiation in the General Assembly. We all stand to benefit from it, as we are all victims of this scourge and have all paid a high price for it. We will be able to develop an effective response only if we act collectively. The decision lies in our hands”.

(S/PV.6034; pp. 27–28).

XV. PACIFIC SETTLEMENT OF DISPUTES

XVI. COERCION AND THE USE OF FORCE SHORT OF WAR

1. Spain's participation in Peacekeeping operations

Note: See XII.1. United Nations and XIII.7. Peacekeeping missions

In her appearance before the Defence Committee of the *Congress of Deputies* on 10.12.08, the Minister of Defence, Ms. Chacón Piqueras, reported on the development

of the operations of the Spanish Armed Forces abroad in accordance with the provisions of Article 10.12.08 of the National Defence Act, Organic Law 5/2005:

“(...)

Moreover, I would like to comment on the number of soldiers abroad which, as you are aware, is approximately 3,000. As you know, this limit was first approved by the Cabinet at its meeting of 25.06.04 and initially established at 2,600 troops without specifying a ceiling for each operation. Later, by agreement on 27.06.05, this figure was raised to 3,000 troops for all of our operations abroad considered jointly. This figure includes all of the personnel of the units deployed, including officials holding posts at operational headquarters and their specific support units, both navy and air force. Since that time, the number has been limited to 3,000 troops for all of the agreed extensions, the last at the Cabinet meeting held on 28.12.07 extending the participation of the Spanish Armed Forces in operations outside of national territory to 31.12.08. This figure, as appearing in the successive agreements, was considered appropriate and sufficient to handle the operations in which Spain was participating at each given time in light of the foreseeable evolution of the situation in those countries where our troops were deployed. I hold that... a number of factors have rendered this limit obsolete. Today, thanks to the National Defence Act (Organic Law), every Spanish soldier who crosses our borders does so meeting two conditions: Parliamentary approval and full legitimacy of the United Nations. Moreover, Spain's international obligations have grown incessantly as has the credibility of our commitment as members of international organisations.

For these reasons,... over the next few weeks I will propose to the Cabinet to forego the limit on the maximum number of military troops taking part in international missions. As a result, as from 2009, the number of soldiers who participate in international missions will be limited only by the legality of the mission, the will of the Spanish people and the capacity of our Armed Forces. You may be wondering... how many troops can our Armed Forces maintain deployed outside of our borders. Well, thanks to their modernisation and thanks also to their enlargement, the Spanish Armed Forces easily surpass the objective established by the Atlantic Alliance of 8% of forces with operational capacity. In other words, today our Armed Forces have the capacity to deploy up to 7,700 military personnel in missions abroad. Summing up; the limits are clear: international legality, the will of the Spanish people and the deployment capacity of our Armed Forces abroad. Whether these be 1,000, 3 000 or 7,700 troops abroad, this will be decided by the Spanish society through their Parliamentary representatives.

(...)

... As for the actual missions abroad, today our forces are deployed in Bosnia, Kosovo, Afghanistan, Lebanon and Chad.

Bosnia and Herzegovina... Our current presence in Bosnia and Herzegovina is within the framework of the CSDP operation that goes by the name of Althea under United Nations Security Council Resolution 1575 of 22.11.04. By virtue

of this Resolution, in December of that year the European Union took over the operations in Bosnia and Herzegovina using the Berlin Plus mechanisms with access to NATO means and capacity. Currently 2,125 troops from 26 countries, 21 of which are European Union members, are taking part in Althea. Spain is the number one contributor to that mission with 341 military personnel...

...The cost envisaged for 2008 to cover Spain's contribution to that operation is just under 82 million euro... Today the transfer of duties to the Bosnia and Herzegovina Armed Forces is almost complete and the security situation is calm and stable. It is therefore safe to say that the military objectives have practically all been met. In consequence, on 29 September the European Union circulated a document taking stock of the different ways that the European Union could support Bosnia and Herzegovina, and four options were recommended ranging from the permanence of Eufor to its complete withdrawal. Of the four options proposed, the one that appears most feasible and the one that Spain considers most suitable is the third calling for a reduction of forces in the field and the maintenance of a few specific capacities for advisory and training purposes to support the Bosnia and Herzegovina Ministry of Defence and Armed Forces...

Kosovo. The other operation under way in the Balkans is in Kosovo. The situation there is complex due to the political situation created by the unilateral declaration of independence on 17 February and the uncertainty stemming from the transition from the Unmik United Nations mission and the deployment of the civilian CSDP mission which, as you all well know, is called Eulex. Spain does not accept unilateral declarations of independence because it considers them an infringement of international law, one of the pillars of which is respect for the territorial integrity of States. That is why Spain has not acknowledged the independence of Kosovo. This political initiative undertaken by the Pristina authorities, which has not been accepted by Spain, did not put an end to the problems sparking the deployment of KFOR troops, the NATO-led multinational force. Spain responsibly decided to maintain its contribution to this mission whose aim is to guarantee a safe environment and freedom of movement through the whole of the territory, while protecting ethnic minorities in compliance with United Nations Security Council Resolution 1244 of 10.06.99. This Resolution will remain in force until the United Nations Security Council decides otherwise. Spain has insisted that KFOR must uphold the principles of neutrality and impartiality which have always guided its action. Furthermore, KFOR should stay on as the third response echelon behind the Kosovar police and the Unmik Police. In this connection it is of vital importance to prevent any sort of security vacuum during the transfer of authority from Unmik to Eulex which could put KFOR on the front line as the first level of response.

As for the current size of KFOR, there are 15,510 troops from 33 countries, 25 of which are NATO members. Spain ranks sixth among the participating countries with a contribution of 623 troops. The Spanish contingency forms part of the West grouping under Italian command. The Spanish forces are mainly deployed at the Spanish Base in the town of Istok whose scope of action is

the area Northwest of Kosovo...The estimated cost of Spain's contribution in 2008 comes to 68.7 million euro...

Afghanistan...The nature of the ISAF mission was defined from the outset by United Nations Security Council Resolution 1836 adopted on 20.12.01 and has remained unchanged in the successive resolutions extending the mission. The said Resolution bears witness to the fact that the situation in Afghanistan poses a threat to international peace and security and this fact is still expressed in the most recent Resolution 1833 of 22 September of this year. That Resolution reiterates the Security Council's support for international efforts to eradicate terrorism in accordance with the United Nations Charter; it authorises the establishment of an international security assistance force to help the Afghan Government to improve security in the country, acknowledging that this a major responsibility of the Afghan authorities and authorises ISAF to act under the umbrella of Chapter VII of the United Nations Charter. Spain has authorisation for the deployment of 778 troops in the area making us the eleventh contributor in terms of number of troops. Since 2002, a total of 11,737 troops in the different rotations have been deployed in Afghanistan...

(...)

...a political-military strategy was agreed by the Heads of State and Government at the Bucharest Summit as well as a reconstruction and development strategy, the Afghanistan Pact, approved at the London Conference in January 2006. In this context we are convinced that we must intensify the "Afghanisation" process allowing Afghanistan to take charge of its own destiny as soon as possible. One of the keys to "Afghanisation" is to boost the role of the Afghan National Army, the ANA...

(...)

I would like to end by highlighting the extremely high price Spain has paid in Afghanistan. 87 Spanish soldiers have died in that mission. Of those, six have died in terrorist attacks and the rest in different types of accidents. Among these latter victims, special mention should be made of the 62 lives lost in the Yak-42 accident and 18 in the Cougar. That makes this mission the one that has taken the most Spanish lives to date.

I would now like to comment on the situation of our contingency in Lebanon. Spain's contribution in Lebanon forms part of a United Nations operation that the international community has been conducting for three decades now, since 1978. Therefore, Unifil has had to adapt over time depending on the political situation and at present the operation is responding to the needs stemming from the conflict between Israel and Lebanon in the summer of 2006. We have also paid a high price in this theatre of operations. Seven of our soldiers have lost their lives there carrying out duties under the orders of the United Nations laid down in Council Resolution 1701 (2006). As you will recall, that Resolution increased the size of the Unifil force to a maximum 15,000 troops and also broadened the mission's mandate as per Resolutions 425 (1978) and 426 (1978).

Unifil is a complex entity. It is a blue helmets mission whose duty it is to stand between the parties in the conflict. Deployed in an area not exempt

from danger, they must also help and accompany Lebanese institutions and that country's own Armed Forces in the discharge of their duties.

In an area as ravaged as the one where Unifil is deployed, the Spanish contingency also carries out demining duties and helps with the reconstruction of infrastructures and health-care. This work merits special mention in light of its positive effects on the civilian population.

As for demining activities, over 400,000 square meters of terrain affected by missiles and sub-munitions have been deactivated and cleaned up...In accordance with the Cabinet agreement of 08.09.06 a maximum of 1,100 troops were authorised and during the course of 2008, a total of 3,390 troops have been deployed at the mission on a rotation basis. The approximate cost of the operation in 2008 is 177,457,262 euro...

(...)

The European Union ESDP operation Eufor Chad/CAR is a prime example of humanitarian intervention as can be clearly deduced from its objectives: First of all, to contribute to the protection of the civilian population in danger, especially refugees and displaced persons; secondly, to facilitate the distribution of humanitarian assistance and the free movement of humanitarian personnel by improving the security environment at the area of operations; and lastly, to contribute to the protection of United Nations personnel, facilities and equipment and to guarantee the security and free movement of that personnel.

This is a limited duration operation; in fact it is a bridge operation lasting one year and will end in March 2009 and is closely coordinated with the presence of the United Nations in the East of Chad and Northeast of the Central African Republic. United Nations Security Council Resolution 1834 includes, among other issues, the possible deployment of a military component of the United Nations as the continuation of this Eufor Chad/CAR mission.

...given that transport was one of the essential capacities, the contribution of two T-21 transport planes and a maximum of 100 troops has been essential to the discharge of duties...Spain's contribution to date in this mission has involved 202 troops, including rotations, and today, in addition to the two aircraft mentioned, 84 of our soldiers are deployed. The approximate cost of this mission in 2008 comes to 19 million euro...

...I would like to state very clearly, and without prejudice to our current commitments, that Africa and the Mediterranean area of influence will be the targets of future deployment of our Armed Forces. The most imminent is the Atalanta operation off the coast of Somalia which Spain has enthusiastically supported right up to its recent launch.

(...)"

(*DSC-C*, IX Leg., n. 169, pp. 5–12).

XVII. WAR AND NEUTRALITY

1. Disarmament

a) In General

In response to a parliamentary query on 27.11.08, the Government reported on compliance with Amnesty International recommendations on arms trading:

“The Government has the firm intention of strictly enforcing Law 53/2007 of 28 December 2007 on the control of external trade in defence and dual-use items and the European Union Code of Conduct. It has also actively promoted the Arms Trade Treaty at the Group of Governmental Experts meetings up to the conclusion of the Treaty and in future will maintain that same position promoting the Treaty with its sights on the 62nd United Nations General Assembly that will take place this Autumn.

As for the transparency of statistics, progress has been made regarding the information furnished each year. The 2007 statistics were the first to be drawn up following the approval of Law 53/2007, sparking the Government to substantially improve the level of information contained in that report.

First of all, that Law contains two headings in the part on defence material referring to the proposal for the drafting of an International Arms Trade Treaty and processes for the prohibition or setting up of restrictions on cluster bombs. In the section covering dual-use items, a heading has also been included on the anti-proliferation initiatives in the sphere of nuclear weapons and missiles.

Secondly, in addition to the figures on exports of defence material, other material and dual-use items and technologies broken down by product category and destination country, tables have also been included featuring the same structure but referring to operations authorised in 2007.

Thirdly, a table has been added showing details of cases where the so-called catch-all clause has been applied in accordance with Article 4 of Council Regulation (EC) 1334/2000 of 22 June 2000 setting up a Community regime for the control of exports of dual-use items and technology.

Four, information has been furnished on the time it takes to process licenses, the different categories of authorisation, comparison between the number of operations authorised and those actually undertaken and exemptions granted by the Inter-Ministerial Regulatory Board on External Trade in Defence and Dual-use Material (JIMDDU) for certain operations concerning the preliminary report and/or the control document.

Tables have likewise been included referring to Spain's contribution to the United Nations Conventional Arms Register featuring a specific breakdown of exports of small arms and light weapons.

The question put to the Government..., refers to the possible authorisation of transfers to countries involved in armed conflicts or where human rights are liable to be violated. In this connection it is important to recall that Law 53/2007

explicitly includes the eight criteria laid down in the Code of Conduct on Arms Exports and those envisaged by the Organisation for Security and Co-operation in Europe (OSCE) for transactions involving small arms and light weapons. For all of these reasons, when reporting on a transaction the JIMDDU, the body entrusted with undertaking this duty, not only evaluates a series of fundamental parameters such as the item, the country of destination, commitments acquired in international fora, denials decided by other countries, recipients and end users, end use and control documents, it also strictly applies the said criteria.

And lastly, I would stress that Spain has actively promoted the drafting and approval of an International Arms Trade Treaty. Hence, our country has participated, along with another 27 countries, in discussions focusing on the feasibility, scope and parameters of an instrument of these characteristics at the meetings of the Group of Governmental Experts held in New York from February to August of this year. The most recent meeting of that Group of Experts was held on 28 July to 8 August. A report was drawn up at that meeting which will serve as the basis for work to defend the feasibility of the said Treaty during the 62nd sessions of the United Nations General Assembly this Autumn. The Spanish Government is firmly engaged in defending the feasibility of an International Arms Trade Treaty during those sessions”.

(BOCG-Congreso D, IX Leg., n. 114, p. 358).

In her appearance before the Defence Committee on 17.09.08, the Secretary of State for Trade, Ms. Iranzo Gutiérrez, presented the Spanish export statistics regarding defence material, other material and dual-use items and technologies for 2007:

“...Exports to European Union countries accounted for a lower than normal percentage in 2007: 36.2% as compared to 59.8% in 2005 and 79.6% in 2004. However, in absolute terms, sales to the European Union accounted for €337.7 million which is higher than the figure from 2006 and 2005, €241.9 million and €251 million respectively. Exports were basically distributed between the United Kingdom, Germany, Italy and Poland. Most of the exports were parts for the Eurofighter 2000 fighter jet to the United Kingdom, Germany and Italy and for the A400M military transport aircraft to the United Kingdom and Germany.

Fuel was another important export category to the United Kingdom (aviation kerosene and NATO specification naval gas-oil). In terms of shipments to Germany, special mention should be made of parts for the Leopard tank and the Iris-T missile while the most important export to Poland was a troop transport aircraft.

Of the non-NATO EU countries, Finland imported €36.3 million worth of material accounting for 4.1% of the total mainly corresponding mostly to two troop transport aircraft. NATO countries accounted for 64.3% of exports, largely due to the export of a second frigate to the Norwegian Navy. Norway imported defence material for a value of €266.4 million accounting for 28.6% of the total. Significant amounts of exports also went to the United States (€38.3 million accounting for 4.1% of the total consisting of military fuels, parts and components for aircraft, tanks and missiles in addition to small arms).

Aside from NATO and European Union nations, there is no other country which stands out in terms of regular purchases. Exports to these countries fluctuate from year to year depending on specific large contracts that Spanish companies may be awarded. Not including shipments or exports to European Union and NATO countries, the remaining sales, €289.4 million accounting for 31% of the total, were divided among 36 countries. From among these recipient countries, special mention should be made of Malaysia with €152.9 million for the stern of a submarine as part of programme for the sale of two submarines in collaboration with France, and also Brazil with €79.9 million for five aircraft for the transport of troops. Mention should also be made of the export to Morocco of 20 non-armoured vehicles, i.e. off-road transport trucks. Australia imported technical documentation for two manufacturing projects involving three frigates and two strategic vessels. Venezuela was the recipient of eight off-road armoured vehicles and four off-road vehicles were sent to Romania.

Focusing on product categories, we would draw attention to the export of “Warships” for €408.5 million accounting for 43.8% of the total and “Aircraft” for €201.4 accounting for 21.6%. Concerning so-called “other material”, exports totalled €216,664, the only recipient countries being Morocco, Bolivia, Portugal and Andorra.

(...)

As for exports of dual-use items and technologies there was an increase of 44.6% in 2007 vis-à-vis 2006, the 2007 export figure totalling €114.3 million. From among the main countries of destination in 2007, we should note the United States with €58.6 million accounting for 51.3% of total exports in this category. The items exported were steam generators and fuel for nuclear power plants, pre-impregnated carbon fibre for civil aviation and communications systems. Also worthy of mention were exports to Iran for €24.9 million accounting for 21.8% of the total consisting of automobile industry tools and spare parts, steel pipes for the manufacture of steam boilers and air conditioning systems, steel pipes for the oil and gas industry and spare parts for civilian aircraft... Mention should likewise be made of exports to another series of countries beginning with China, which was the number three destination for these items totalling €7.9 million and accounting for 6.9% of the total. Shipments to China consisted of cryptography equipment for mobile telephones, power condensers for electricity plants, machine tools for the civil aviation, automobile and textile industries and components for a weather satellite. This destination is growing in importance as a receiver of Spanish dual-use exports. And lastly, Brazil ranked fourth in importance receiving €6.8 million worth of these items accounting for 6% of the total. In this case, exports consisted of pre-impregnated carbon fibre for the aeronautics industry, chemicals for tanning industries, power condensers for electric motors and components for a satellite. Apart from these four main destinations, the small remaining percentage (13.9%) was distributed among 52 countries from different areas.

(...)

... defence’s industrial sector for our country. This sector forms a fundamental part of our defence and national security and has a degree of economic relevance

despite its modesty – turnover in 1996 of €3.6 billion. It was responsible for creating nearly 17,000 jobs and contributes decisively to technological development and innovation which are, as has already been highlighted, areas where, generally speaking, our industrial sector lags significantly behind. The report also points out that this sector is competitive not only because it is able to supply the main weapons systems needed by our Armed Forces, but also because it exports nearly 40% of its total production...

(...)

...As I already mentioned, Morocco received 20 unarmed and non-armoured off-road transport trucks. It was also the destination of 4,400 105mm mortars, 600 105mm illuminating mortars and 5,000 propelling charges and spare parts for aircraft engines. We have made sure that this material is for the exclusive, and I stress *exclusive* use of the Government and has adhered to the eight European Union criteria and the criteria laid down in the OSCE document for small arms and light weapons. The report also mentions exports to Myanmar under the chapter on dual-use items. Indeed, we have registered the export of a chemical substance, an acetate product used for laboratory analyses...

(...)

(DSC-C, IX Leg., n. 74, pp. 5–16).

b) Cluster bombs

In response to a parliamentary query, on 11.07.08 the Government reported on the measures adopted for the eradication of cluster bombs:

“Spain has taken part in all of the conferences and meetings organised to date within the framework of the Oslo process. At the meeting held in the Norwegian capital, Spain endorsed the final Oslo Declaration committing to actively work in favour of negotiating a legally binding instrument with the aim of, inter alia, prohibiting the use, manufacture, transfer and stockpiling of cluster munitions which cause unacceptable damage to civilians, and establishing an outline for cooperation and assistance guaranteeing proper care and rehabilitation for survivors and their communities, the cleanup of contaminated areas, education on the hazards of such munitions and the destruction of illegal cluster munitions arsenals.

Spain has also just taken part in the Diplomatic Conference on Cluster Munitions which took place in Dublin from 19 to 30 May 2008 which concluded with the adoption of a draft Convention on Cluster Munitions which will be submitted to the States for signing on 02.12.08 in Oslo, thus bringing the process initiated in this capital city at the beginning of 2007 to an end.

The position held by the Spanish delegation throughout the entire process was in line with the Parliamentary mandate and therefore it took a position throughout the process in favour of the broadest necessary prohibition to guarantee the ultimate aim of the Treaty, i.e. the prevention of unacceptable humanitarian harm caused by weapons of this sort during and in the aftermath of conflicts. Any exceptions envisaged in a prohibition of this type must continue to uphold this ultimate objective of the Treaty.

Furthermore, the Spanish delegation paid close attention to the part of the Convention on victims. Spain proposed the inclusion of a definition of victims to ensure that they would be clearly identified as having the legal right to assistance which, in turn, will help in identifying the scope of the commitments and obligations of the contracting States insofar as medical assistance, rehabilitation, social integration, etc. targeting victims (and their families and communities) is concerned.

According to what was agreed in the Oslo Declaration, the aim of the process was to negotiate a legally binding instrument for the purpose, inter alia, of prohibiting the use, manufacture, transfer and stockpiling of cluster munitions which do unacceptable harm to civilians.

Once abiding by the Convention, Spain must legislate accordingly just as it did on the occasion of the Convention on Anti-personnel Mines by approving Law 33/1998 of 5 October 1998 on the Total Prohibition of Anti-personnel Mines and Similar Weapons.

The Spanish government always supports advanced measures within the framework of the international community where humanitarian issues take precedence over the possible operational advantages of the military use of certain weapons considered excessively damaging or having indiscriminate effects, basically on the civilian population as is the case with cluster bombs, anti-personnel mines and other military explosives. It goes without saying that for the Government, the pre-eminence of humanitarian considerations over operational ones also applies to economic considerations”.

(*BOCG-Congreso D.*, IX Leg., p. 92).

c) *Morocco*

In response to a parliamentary query, on 11.11.08 the Government reported on the criteria applied in authorising the sale of weapons to Morocco:

“The Spanish authorities have been especially careful in their analysis of export applications to Morocco ever since the crisis of the Summer of 2002. Every possible export of defence or dual-use material to Morocco is analysed individually and thoroughly taking account of the eight criteria of the European Union Code of Conduct on Arms Exports and the criteria of the OSCE Document on small arms and light weapons. In deciding on the appropriateness of such exports, special thought goes is focused on Code criterion 2 (respect for human rights), 4 (regional situation) and 7 (risk of diversion).

Exports made in 2007 to Morocco under category 4 consisted of 4,400 105mm mortars, 600 105mm illuminating mortars and 5,000 propelling charges for a total value of €9.3 million.

In the 2007 statistics report you will find tables listing the value of the exports authorised and actually undertaken with a breakdown by country of destination and item category with a level of information deemed sufficient taking account of the limitations imposed by Article 13 of the Public Statistical Operation Act, Law 12/1989 of 9 May 1989”.

(*BOCG-Congreso D.*, IX Leg., p. 58).

d) Israel

In response to a parliamentary query, on 06.11.08 the Government reported on the criteria applied in authorising the sale of weapons to Israel:

“The policy applied by the body responsible for informing on the export of these items, the Inter-Ministerial Regulatory Board on External Trade in Defence and Dual-use Material (JIMDDU) and the Secretariat-General for Foreign Trade, the unit in charge of processing exports, has been extremely meticulous since January 2001, responding sooner than the majority of European Union countries in establishing restrictions on exports to Israel. Since that date, no final export of any weapon or lethal piece of equipment or that which could be used as anti-riot equipment has been authorised. The main categories authorised have been electronics equipment for aircraft, temporary exports for the repair of components or munitions testing, in addition to dispatches of sporting weapons (re-exported to the United States once assembled), specifically excluding paramilitary and anti-riot material. The bulk of these transactions are the result of agreements between the Ministries of Defence of the two countries.

The JIMDDU has adhered to the eight criteria of the European Union Code of Conduct on Arms Exports since its approval on 08.06.98 as well as the criteria laid down in the OSCE Document on small arms and light weapons. Defence material export requests are analysed on a case-by-case basis by the JIMDDU which conducts a painstaking examination of the desirability of a given export transaction in accordance with the aforementioned criteria with special attention paid to criteria 2 (respect for human rights), 3 (internal situation), 4 (regional situation) and 7 (risk of diversion).

Israel is not now subject, nor has it been subject during the last several years, to any sort of embargo as regards the export of defence material, although nearly all European Union countries have applied precautionary policies during this period when authorising the export of weapons or even dual-use items and technologies to that country or neighbouring ones”.

(BOCG-Congreso D., IX Leg., n. 99, p. 610).