

Spanish Diplomatic and Parliamentary Practice in Public International Law, 2006

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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. 2006 (<http://www.mae.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).

¹ The authors are very grateful to M. Requena Casanova (Associate Lecturer in Public International Law) and F. Pascual Vives (Assistant Lecturer in Public International Law) from the University of Alicante, and to F. Lozano Contreras (Associate Lecturer in Public International Law) from the University of Alcalá.

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 XVI Ibero-American Summit of Heads of State and Government, held in Montevideo (Uruguay) on 3–5 November 2006, approved a Final Declaration which included the following:

1. We, the Heads of State and Government of the 22 countries comprising the Ibero-American Community of Nations, (...) reaffirm our absolute adhesion to the purposes and principles enshrined in the United Nations Charter, to the unrestricted reign of democracy, to respect for sovereignty and non-interference in the internal affairs of States, to respect for and promotion of human rights, to the strengthening of multilateralism and respect for the principles of International Law, to the peaceful solution of disputes and to the rejection of the use of unilateral coercive measures contrary to international law.

2. We reaffirm the values proclaimed, the principles defended and the goals agreed in the course of previous summits, all of which go to make up the Ibero-American *acquis*. Within that framework, the right to development and the essential conditions to achieve that have been and continue to be the object of special attention. We likewise confirm our commitment to fulfilment of the Millennium Development Goals. We hereby affirm our resolve to continue to combat inequality, hunger and poverty, all factors that can compromise democracy and constrain the effective exercise of civic rights, the progressive overcoming of

which requires the implementation of policies to promote economic development accompanied by social inclusion, generation of decent employment and a lasting solution to the problem of external debt. We reaffirm our prioritisation of the fight against terrorism in all its forms and manifestations, and of the fight against other scourges such as transnational organised crime, the world-wide problem of illegal drugs, and likewise money-laundering, corruption, smuggling of immigrants, trafficking in persons and others.

(...)

9. We have adopted the Ibero-American Cultural Charter with a view to promoting the construction of a culture of peace based on exchange, inter-cultural dialogue, consultation and cooperation among our peoples, and we are determined to set in motion such national and cooperative initiatives as will help to achieve its objectives. This Charter derives its strength from a common cultural heritage, from the wealth of our origins and from the plurality of their expression, and it will help to consolidate an Ibero-American cultural area....

(...).

The Final Declaration adopted by the Heads of State and Government of the European Union, Latin America and the Caribbean, at the IV Summit held in Vienna (Austria), 12 May 2006, stated as follows:

3. (...) We firmly believe that democracy, the rule of law, the respect, promotion and protection of human rights, poverty eradication, social and economic development and respect for international law are essential for peace and security. We further reiterate our shared commitment to a strong and effective multilateral system, to which end we are committed to advancing the multilateral agenda as a cross-cutting issue and as a priority for our bi-regional relations. We will intensify our efforts to define common positions and joint actions between the two regions within the various UN bodies and at major UN conferences.

4. (...) We stress that democracy, development and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing, and are basic principles of our strategic bi-regional partnership.

(...)

We will cooperate closely in strengthening the policies, mechanisms and instruments of the United Nations for the effective promotion and protection of human rights. We will also reinforce the promotion and protection of human rights in our national policies.

5. We will work towards full gender equality paying special attention to the full enjoyment of all human rights by women and their further advancement, reaffirming the Beijing Declaration and Platform for Action and the Beijing Plus Five Declaration and outcome document. We will ensure respect for and implementation of the rights of the child as well as due consideration of the needs of people with disabilities and other vulnerable groups.

We will continue to advance in the promotion and protection of the rights and fundamental freedoms of indigenous peoples at the local, national, regional, and international levels. The full exercise of these rights is essential for their

existence, welfare and integral development and for their full participation in society. We will also continue to advance the rights and fundamental freedoms of persons belonging to minorities at all levels.

(...)

13. We reaffirm our commitment to the purposes and principles enshrined in the United Nations Charter, we reaffirm our decision to support all efforts to uphold 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 extra-territorial 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, recalling UNGA resolution 60/12, we reaffirm our well-known positions on the application of the extra-territorial provisions of the Helms-Burton Act.

14. We will continue to promote compliance with international law and reinforce commitment to an international rules-based order. We recall the obligation to settle disputes peacefully and encourage all States to make greater use of international dispute settlement institutions, including the International Court of Justice. In addition, we fully support the International Criminal Court, and the States parties call on those countries which have not done so to ratify or accede, as applicable, to the Rome Statute of the International Criminal Court, and to cooperate with the Court.

(...).

II. SOURCES OF INTERNATIONAL LAW

III. RELATIONS BETWEEN INTERNATIONAL LAW AND MUNICIPAL LAW

IV. SUBJECTS OF INTERNATIONAL LAW

1. Self-determination

a) Palestine

On 26 October 2006, the Government replied to a question tabled in Congress regarding the offensive launched by Israel on the territory and population of Palestine, as follows:

1. The Minister of Foreign Affairs and Cooperation has been in constant touch with the Israeli and Palestinian authorities. He has made use of its contacts with

both sides to try and ease the way to release of the soldier kidnapped in Gaza and of the Palestinians arrested by the Israeli Security Forces, who include Government Ministers and Members of Parliament. The Ministry has been closely following the crisis to try and prevent an escalation of violence in the area.

At a Community level, when the Israeli offensive in Gaza commenced, the EU Presidency issued a Common Declaration on behalf of the Member States expressing their concern at the situation in the region and called on the parties not to give in to pressure and not to take steps in contravention of International Law. The Presidency further expressed regret at the destruction of basic infrastructure in the towns of the Gaza Strip and the worsening of the humanitarian situation of the Palestinian population. Finally, it urged the parties to consider their liability and demonstrate willingness to arrive at a negotiated settlement of the conflict.

2. The invasion of Gaza followed on the kidnapping of the Israeli soldier Gilad Shalit, allegedly by a faction of Hamas, and the launching of Qassam rockets at towns bordering the Gaza Strip. Any Israeli reaction in this crisis ought to adhere to the rules of international law. No-one denies Israel's right to repel terrorist attacks, but under no circumstances should that entail a collective attack on the civil population in general, or violate current international law.

3 and 4. The Spanish Government will continue to make use of its contacts with both sides to try and set the Peace Process back on course once the present crisis in the area is settled. Only through dialogue will it be possible to reach a solution to the conflict between Palestinians and Israelis – a dialogue leading to the creation of two States living in peace and security with internationally-recognised frontiers, as envisaged in the Road Map.

Spain will not recognise any unilateral action by Israel that prejudices the outcome of bilateral negotiations and prevents attainment of the key goals of the Peace Process, among them the creation of a viable, independent Palestinian State. It is essential to reactivate this Process so as to generate a new climate of trust between the parties and implement the provisions of the Road Map. For that to happen, Hamas must meet the three conditions stipulated by the Quartet and supported by the international community in general, and Israel must participate fully in negotiations and accept the President of the PNA, Mahmoud Abbas, as a valid interlocutor.

The Security Council has already the text of the Resolution on the present situation in the Palestinian Territories. Spain is not a member of the Council at present, but it will fully support the text of the Resolution to be approved.

(*BOCG-Congreso.D*, VIII Leg., n. 455, p. 433).

b) Western Sahara

On 20 July 2006, in reply to a question in the Senate regarding its position on the future of the dispute over the Western Sahara following the King of Morocco's latest visit to the Sahara not long before publication of the report by the UN Secretary-General's Special Envoy, the Government stated as follows:

The King of Morocco's visit to Western Sahara is nothing new: this is the third time he has visited the territory in seven years since he became king. His predecessor, Hassan II, also visited it on several occasions.

No Spanish government of the last few decades has maintained so active and so responsible a commitment to extract the conflict in Western Sahara from the political doldrums in which it is stuck after 30 years. All our foreign policy resources are being harnessed to the pursuit, within the framework of the United Nations, of a just, lasting and mutually acceptable political solution which will provide for the self-determination of the people of Western Sahara. These are the terms used by the Security Council in Resolution 1675 of 28 April.

Spain does not possess the ultimate key to such a solution. That is up to the parties, within the framework of the United Nations. Nonetheless, it can exert some influence and contribute actively to bringing a solution back on to the political horizon, given its particular relations with the parties (Morocco and the Polisario Front), with neighbouring countries (especially Algeria and Mauritania) and with other involved governments. Over the last two years the Government has intensified its contacts with all these and has been striving to reactivate discussion of this question at the United Nations.

(*BOCG-Senado.I*, VIII Leg., n. 526, p. 14).

On 16 October also, the Government replied to a parliamentary question concerning fulfilment of the commitment acquired by the Spanish President of the Government when he promised to support UN resolutions on the Saharan conflict.

No Spanish government of the last few decades has maintained so active and so responsible a commitment to seeking a political solution to the conflict in Western Sahara that will extract it from the political doldrums in which it is stuck after 30 years without a solution.

This active commitment means using all our foreign policy resources in pursuit, within the framework of the United Nations, of a just, lasting and mutually acceptable political solution which will provide for the self-determination of the people of Western Sahara. The essential point of reference is, then, the United Nations (UN), and in particular the Secretary-General (UNSG) and his Personal Envoy, Ambassador Van Walsum, under the authority of the Security Council (UNSC). Spain is not a member of the UNSC but it has the opportunity to meet its responsibilities as part of the Group of Friends of Western Sahara.

Following the resignation of the UNCS Special Envoy Mr. Baker, Spain made various representations and also sent written messages to the UNSC stressing the need to revive UN action, and a start was made in that direction with the appointment of Mr. Van Walsum as Personal Envoy.

In the negotiations leading up to the UNSC resolutions, Spain played an active, constructive role, seeking consensus among the Parties, neighbouring countries and other members of the Group of Friends and the UNSC. This applies equally to Resolution 1675 of 28 April 2006. Spain's position is respected and valued by all those who have been involved in the process leading up to this resolution, and Spain will continue to uphold it with constructive vigour in the

coming months, which provide an invaluable and urgently-needed window of opportunity.

(*BOCG-Congreso.D*, VIII Leg., n. 449, p. 260).

Finally, on 26 October, in reply to a question in Congress on the excessive use of police force by the Moroccan government against groups demanding a referendum on self-determination for the Saharan people, the Government asserted:

The defence and promotion of human rights is one of the cornerstones of this Government's foreign policy.

Within that general framework, the Government is closely following the human rights situation in Morocco and as regards the Saharan population, both in Western Sahara and in Tinduf.

Bilaterally, the Government has taken a special interest in the human rights situation in the territory of Western Sahara and on numerous occasions has stressed to the Moroccan government how important it is that these rights are respected, in accordance with their own internal laws and with the principal instruments of international law on the subject.

The Government has pursued a similar course within the ambit of the European Union, where one of the requirements of both the EU-Moroccan Association Agreement and the EU-Morocco Neighbourhood Action Plan is respect for the *acquis* in matters of human rights.

The defence of the human rights of the Saharan population is inseparable from the search for a definitive settlement of the conflict in Western Sahara. The Government maintains its active commitment to helping arrive at a definitive solution to that conflict. This commitment means using all our foreign policy resources in pursuit, within the framework of the United Nations, of a just, lasting and mutually acceptable political solution which will provide for the self-determination of the people of Western Sahara.

In the meantime, Spain is constantly striving to improve the human rights situation in Morocco and Western Sahara, and its efforts have helped achieve some progress in various aspects: release of detainees by Morocco; progress in EU-Moroccan negotiations for the creation of a Sub-Committee on Human Rights, Democratisation and Governance; and at the United Nations, agreement on a visit by a delegation sent by the UN High Commissioner for Human Rights, who visited the territory of Western Sahara and the Tinduf camps last May.

(*BOCG-Congreso.D*, VIII Leg., n. 455, p. 401).

V. THE INDIVIDUAL IN INTERNATIONAL LAW

1. Diplomatic and Consular protection

a) Diplomatic Protection

On 26 October 2006, Spain's representative on the Sixth Commission of the General Assembly, Mrs. Concepción Escobar Hernández, made the following remarks

on the draft articles on diplomatic protection approved by the International Law Commission:

(...) her delegation was pleased overall with the set of draft articles on diplomatic protection. Among the major contributions of the draft articles were the reaffirmation of diplomatic protection as a right of the State, the maintenance of nationality as the basic criterion for the exercise of diplomatic protection, and the definition of continuity of nationality as the period extending from the date of injury to the date of official presentation of the claim. The draft articles in their final form ably addressed diplomatic protection of natural persons, the specific problem of shareholders and the exhaustion of domestic remedies. The explanations in the commentaries on the differences between diplomatic protection and consular assistance and on the concept of “predominant nationality” had answered many questions previously raised by Spain.

The draft articles struck a good balance between codification and progressive development of the law. Draft article 8 was an appropriate response to the need to ensure protection of refugees and stateless persons, while draft article 19 laid emphasis on the ultimate beneficiary of diplomatic protection. However, since draft article 19 was cast in the form of recommendations, it appeared to be out of keeping with the overall form of the draft articles and might benefit from redrafting.

In the view of her delegation, the work on diplomatic protection had advanced sufficiently for the elaboration of a convention on the topic. It supported the Commission’s recommendation in that regard and considered that it would be appropriate for the General Assembly to establish an *ad hoc* committee to prepare a draft convention on diplomatic protection based on the Commission’s text.

(Doc. UN, A/C.6/61/SR.11, p. 2).

2. Aliens

In reply to a parliamentary question on 28 September 2006, the Spanish government reported on the legal situation of immigrant children in Spain:

The actions of the Spanish public authorities with regard to unaccompanied alien children in Spain are guided strictly by the laws of this country, which incorporate the international regulations on the subject. The action protocol for dealing with unaccompanied alien children and facilitating their repatriation, which was approved on 12 December 2002 by the Children’s Observatory (a collegiate body dependent on the Ministry of Labour and Social Affairs in which there are representatives from the national, regional and local authorities and NGOs which work with children) and updated by the same body in 2005, has been helpful in coordinating the actions of the institutions which have competences in connection with such children.

The specific manner in which the action protocol regulates on the subject of unaccompanied alien children is established in Article 35 of Organic Law 4/2000 of 11 January on rights and freedoms of aliens in Spain and their

social integration, and in the procedure envisaged in Article 92 of the Regulation implementing that Organic Law, which was approved by virtue of Royal Decree 2393/2004 of 30 December. As noted earlier, Organic Law 1/1996 of 15 January on legal protection of children is also applicable. These regulations derive from and implement the 1989 United Nations Convention on the Rights of the Child and the 1992 European Charter of Children's Rights. The cited national rules flow from the distribution of competences defined in Spain by the Constitution, which implicitly attributes competence in respect of the protection of children to the Autonomous Communities and Cities – for although Articles 148 and 149 of the Spanish Constitution, dealing with the competences of the Autonomous Communities, do not mention the care of children as a specific matter, it is presumably included in the concept of 'social care' mentioned in Article 148(20). As such, it is a matter in which an Autonomous Community may assume competence if its specific Statute of Autonomy so provides, and indeed Statutes of Autonomy have tended to include the assumption of such competence (social care, social services and protection of children) on an exclusive basis.

In this connection we would note that, in accordance with the above and with the terms of Organic Law 4/2000 on rights and freedoms of aliens in Spain and their social integration, and likewise of the current Regulation as approved by Royal Decree 2393/2004 of 30 December, an unaccompanied alien child is defined as any alien discovered or located without papers whose condition as a child cannot be established with certainty.

Therefore, whenever an unaccompanied alien person is found who looks like a child, his or her age is checked and he or she is legally classified as an unaccompanied alien child if found to be indeed such, regardless of how long he or she has been in Spain.

Also, when a presumed abandoned child is located, what his or her personal law may be is irrelevant at that moment, since the Legal Protection of Children Act, Organic Law 1/1996 – Article 12(1) of which explicitly envisages the assumption of legal guardianship in cases of abandonment as a means of protection – is applicable to all children in Spanish territory regardless of their nationality.

In such cases the wellspring of all institutional actions is the overriding interest of the child, which is generally taken to mean being with the family and in the cultural environment from which he or she comes.

The family reunion procedure is conducted in every case as provided in the laws on protection of children, with a hearing of the interested party, initiation *ex officio*, and verification to ensure that there is no danger to the child's physical wellbeing and no risk of persecution of the child or his or her family members.

In cases where the proper course is to repatriate the alien child, the governmental authority must process and execute such repatriation with all urgency so as to avoid delaying the reuniting of the child with his or her family or

the return to his or her country of origin and to avoid the child consolidating roots in Spain.

But repatriation of children is not an end in itself, to be pursued come what may, for other interests may be involved, such as the life, the physical or mental wellbeing and respect for the fundamental rights of the child. The decision as to what is the proper procedure must be guided by the overriding interest of the child in light of the circumstances in each case.

We would note in this respect that:

- The different situations of unaccompanied alien children are examined objectively one by one in order to decide whether family reunion is the proper course; also, whenever necessary the cooperation of the authorities in the country of origin is sought and a record is kept of all steps taken.

- Circumstances frequently arise which hinder or prevent the repatriation of unaccompanied alien children, such as a lack of consular response as to the location of the child's family and his/her documentation, escape from the Autonomous Community's reception centre, inadequate or erroneous information furnished by the competent child protection services, false identity claimed by the child, or other difficulties in identifying him or her.

- All facts and incidents are reported to the Prosecution Service at the earliest possible moment, all for the sake of protecting the overriding interest of the child.

In this connection we should highlight the function of the Prosecution Service as the proper defender of the child's rights and the body responsible for the effective functioning of the mechanisms of child protection under Article 174 of the Civil Code.

Therefore, in accordance with the terms of the law currently in force, the overriding concern in the action of the Central State Administration is to protect families and family unity as a guiding principle. An operating principle is the reuniting of the child with his or her family, or failing that with the child protection services of his/her own country, in all cases where there is no risk or harm to the child, albeit it is the concrete circumstances in each case that dictate whether the child should be repatriated or integrated in Spanish society. All this conforms to international standards in these matters, which are fully incorporated into the Spanish legal system through transposition into the Spanish aliens and child protection legislation, and therefore there is no need to enact specific regulations for unaccompanied alien children given that, as noted earlier, the Legal Protection of Children Act, Organic Law 1/1996, is applicable to all children in Spanish territory regardless of their nationality or personal law.

(*BOCG-Senado.I*, VIII Leg. n. 556, pp. 32–33).

In reply to a parliamentary question on 16 October 2006, the Spanish government reported on the granting of asylum in Spain:

1. The reasons for refusing international protection, whether this be based on recognition of refugee status or it be subsidiary protection, arise solely from the fact that those applications so refused do not satisfy the requirements laid

down in the 1951 Geneva Convention on Refugee Status, or in Law 5/1984 of 26 March regulating the right of asylum and refugee status and implementing legislation, as approved by Royal Decree 203/1995 of 10 February.

2. The drop in the number of asylum applications in Spain in 2005 is consistent with the downward trend in Europe, where the number of applicants fell by 15.9% between 2004 and 2005, with increases recorded only in Belgium, Greece, the Netherlands, Latvia and very slightly in Hungary. Moreover, in comparative terms Spain lies in seventh place as regards applicant numbers; the drop here between 2004 and 2005 (5553 to 5260) was very small compared to those of France or the United Kingdom, which received 100,000 applications in the years 2000, 2001 and 2002 and only 30,460 in 2005.

It is a proven fact that almost all of the people who arrive in our country are immigrants who have left their countries of origin for strictly socio-economic reasons. In fact, in the specific case of the Canary Islands, the UNHCR confirmed this in declarations by Erika Feller, Assistant to the UN High Commissioner for Refugees in matters of protection, in a visit to the Islands on 24 May, when she stated that the arrival of these people is not a refugee problem.

3. As to the small number of applications accepted by Spain, I would stress the following:

a) Every one is examined individually, and in very many cases it is found that applicants for asylum are actually people seeking to immigrate for economic reasons; this is true of Ceuta, where practically all irregular immigrants who reach the city ask for asylum.

b) The reality of the applications actually received shows that the number of cases in which Spain grants international protection is around seven per cent of the total registered for the EU. Moreover, it is worth remembering that where international protection is concerned, the important thing is not the number or the percentage of cases in which asylum is granted but whether or not it is granted to people who are genuinely the object of persecution.

c) In comparative terms the rate of recognition of refugee status in 2005, at 3.8 per cent, was slightly higher than in previous years (2001: 3.3 per cent, 2002: 3 per cent, 2003: 3.3 per cent, 2004: 3.6 per cent).

d) The number of administrative appeals that are upheld by the National High Court and in which the judgment grants the appellants international protection is less than five per cent of all appeals brought. In other words, the appeal verdicts uphold the original judgment in 95 per cent of cases.

4. In addition to the foregoing, we would offer the following considerations:

a) All asylum applications are dealt with by the Asylum and Refugees Office (Directorate-General of Internal Policy), a government body specialising exclusively in international protection, examined by specialist personnel and assessed by an Interministerial Commission (Sp. acronym CIAR) on which the UNHCR also sits. This Commission then proposes a decision to the Ministry of the Interior.

b) All asylum applicants are entitled to free legal aid if they lack sufficient financial resources to pay for it; this is provided by Bar Associations and by NGOs specialising in the field of international protection.

We may therefore state without doubt that the Government does meet its international obligations, which include obligations under the 1951 Geneva Convention on Refugee Status.

5. The guarantees in favour of the applicant laid down by the Spanish legal system are strictly upheld by the Government, a fact that is borne out by the judicial decisions handed down from the various appeals that have been lodged, *inter alia* those against repatriations from Melilla, which were dismissed.

6. All aliens are entitled to apply for asylum. To assure the exercise of this right the Spanish asylum system provides a number of guarantees, which have been reinforced by the implementation of a series of actions and measures in the last two years. These are:

a) Publication, in conjunction with the UNHCR and specialised NGOs, of a new brochure containing all the information that an asylum seeker requires, set out clearly and comprehensibly and translated into eleven languages, including a list with the addresses of and means of contacting the NGOs which work in the field of the right of asylum.

b) The Government has set in motion measures specifically designed to assure that anyone arriving in Spain and needing international protection has effective access thereto. In other words, it not only upholds the existing legal guarantees but reinforces them; for instance, in the Canary Islands the Directorate-General of Domestic Policy has issued a set of Instructions on information regarding international protection of aliens newly arrived in Spain aboard *pateras* and other irregular craft who are confined in internment centres (Sp. acronym CIES). These instructions remove any obstacles preventing such people – who are in a vulnerable condition and are unfamiliar with the right of asylum or where they stand – from obtaining information on this subject, and requesting protection through the asylum procedure if they need it.

c) In a similar vein, priority has been given to social care in the internment camps, especially the ones in the Autonomous Community of the Canary Islands.

d) In July 2005 the Directorate-General of Domestic Policy issued other Instructions on procedural aspects relating to possible exercise of the right of asylum by alien stowaways, intended to assure that such stowaways who are in need of international protection are able to secure it.

e) In order to reinforce legal aid – one of the essential elements of the asylum procedure – the same Directorate-General takes the view that up-to-date specialised training of all agents involved in the asylum procedure will constitute an essential guarantee for the system of international protection.

For that reason it has started up an ambitious training programme within the framework of which an agreement has been concluded with the General Council of Spanish Solicitors for the organisation of courses specialising in international protection by Bar Associations in places where the migratory pressure is greatest.

These courses have already begun in Melilla, Las Palmas and Ceuta, and it is planned to continue them at other locations in Spain. In addition there is an initiative to extend these courses to the various public employees involved in the procedure, and to set up a Virtual Campus to supply Bar Associations with up-to-date information.

7. The Government has reduced the time taken to process asylum applications, which has been cut down from an average of 12.6 months in 2003 to less than a year at present; in fact further reduction is still a priority, although this will depend on the actual demand that there is for asylum.

In any case it must be remembered that while their applications are being processed, asylum seekers are protected by the *non refoulement* principle, they are entitled to the health-care and social benefits granted to asylum seekers, and they may seek work once six months have passed since they submitted their applications for asylum.

8. Asylum seekers, displaced refugees and persons who have been granted subsidiary protection are all guaranteed not to be returned to the countries of their nationality, or to their countries of residence in the case of stateless people.

(*BOCG-Congreso.D*, VIII Leg., n. 449, pp. 263–264).

Replying to a parliamentary question on 26 October 2006, the Spanish government reported on its policy with regard to the conclusion of agreements for readmission of immigrants:

1. Bilateral agreements on Regulation and Organisation of migratory flows.

In the course of the present legislature contacts have been initiated with countries which are sources of immigration flows to Spain, such as Ukraine and the Republic of Moldova, with a view to possibly negotiating bilateral agreements to regulate and organise migratory flows, similar to the ones that Spain has concluded with Morocco, Poland, Romania, Bulgaria, the Dominican Republic, Colombia and Ecuador. It is to be hoped that these contacts will lead to the conclusion of agreements with the said countries.

2. Agreements for readmission of immigrants concluded during the present legislature.

The answer to this question is based on the assumption that the expression ‘Readmission Agreements’ encompasses bilateral and Community agreements and includes not only Readmission Agreements as such but also agreements on migratory flows or on cooperation in matters of immigration which contain readmission clauses.

2.1. Bilateral Readmission Agreements

In the course of the present legislature immigration/readmission agreements have been concluded with Macedonia, Bosnia-Herzegovina, Serbia-Montenegro and Peru, and agreements have been initially approved with Ghana and Slovenia. Negotiations are also in progress for cooperation agreements on matters of immigration/readmission with Croatia, Cape Verde, Senegal, Mali and Cameroon.

2.2. Community Readmission Agreements

In the last two years the European Commission has concluded or approved Readmission Agreements on behalf of the European Union with Hong Kong, Macao, Sri Lanka, Albania and Russia. Negotiations are currently well advanced with Morocco, Turkey, Ukraine and Pakistan.

3. Countries which have refused to readmit immigrants despite having signed agreements.

The problem of readmission of immigrants living in Spain on an irregular basis arises essentially in the cases of migratory flows from the Maghrib and the Sub-Saharan region. The response must therefore focus on irregular immigration from the African continent. In this connection, before analysing the level of compliance with readmission agreements now in force, it would seem essential to undertake a preliminary examination of some points regarding the problems of African, and particularly Sub-Saharan, immigration and to set out the new philosophy with which the Spanish government is tackling the challenge posed by this immigration.

3.1. General considerations

When assessing compliance with Spain's Immigration/Readmission agreements with various African countries, it is advisable not to lose sight of the complex context in which the issue of readmission arises. That context is summarised in the following points:

- Readmission agreements are not legally necessary for cooperation in connection with repatriations to function in practice, as all countries are obliged in international law to readmit their own nationals. Indeed, all the sub-Saharan countries accept repatriations, if in limited numbers. And some countries, like Morocco and Nigeria, do so in a manner satisfactory to Spain without any bilateral legal cover (there is no agreement for readmission of nationals with Morocco, and in the case of Nigeria the bilateral agreement signed in 2001 has not formally entered into force and does not contain a clause for provisional application).

- The sub-Saharan countries are becoming increasingly reluctant to sign readmission agreements unless these contain significant provisions for technical assistance, development cooperation and legal emigration – so much so that not even the European countries with most influence in the area have succeeded in concluding any. It is worth recalling in this connection that between the years 2000 and 2004 the Spanish government conducted an active campaign to press for the conclusion of agreements with Sub-Saharan countries (Nigeria, Cameroon, Ghana, Mali, Senegal, Cape Verde, Guinea Bissau, Guinea Conakry and Gambia), with scant results: an agreement on immigration with Nigeria which has not yet come into force, and an agreement with Guinea Bissau which has yet to be ratified.

- Sub-Saharan immigrants routinely refuse to cooperate in the process of substantiating their nationality and determining their point of departure from the African continent. This often renders repatriation an impractical option, even where the competent consular authorities are willing to cooperate.

3.2. Extent of application of readmission agreements with African countries.

1. Guinea Bissau

Our bilateral relationship for purposes of cooperation on migration is founded on an 'Agreement on Immigration' dated 7 February 2003, which contemplates only the readmission of nationals. The agreement has been in operation provisionally since 9 March 2003, but it has not yet been ratified by Guinea Bissau.

The extent of performance of the agreement is not satisfactory for Spain, although the authorities of Guinea Bissau recently acceded to the repatriation of 29 Guinean citizens who had entered the Canary Islands irregularly.

2. Algeria

Spanish-Algerian relations in connection with readmission are governed by a 'Protocol for Free Movement of Persons' signed on 31 July 2002 and in force since 18 February 2004. The agreement, which contemplates only readmission of nationals, is being properly applied by the Algerian authorities.

3. Morocco

A readmission agreement between the two countries entitled 'Agreement regarding the movement of persons, transit and readmission of aliens who have entered illegally' has been applied provisionally since 15 April 1992. It only contemplates readmission of third-country nationals. The extent of performance is unsatisfactory for Spain, although at the last meeting of the bilateral Parliamentary Group on Immigration the Moroccan side agreed to 'examine the assurances that ought to accompany its application'.

On the other hand we would stress that readmission of Moroccan nationals who have entered Spanish territory irregularly is being conducted in a manner satisfactory to this country, despite the fact that in this case there is no bilateral legal instrument.

4. Mauritania

Spanish-Mauritanian relations in connection with immigration are regulated by an Agreement on Matters of Immigration dated 1 July 2003, which has been applied provisionally since 14 August of that year. The agreement deals with readmission of both Mauritanian nationals and citizens of third countries. In practice, the Mauritanian authorities apply it properly as regards repatriation of their own nationals, and less satisfactorily as regards the readmission of third-country nationals; however, since the recent avalanches of landings in the Canary Islands, they have accepted readmission of 259 immigrants from Senegal and Mali to Mauritanian territory.

5. Nigeria

Spanish-Nigerian cooperation is governed by a bilateral agreement on immigration signed on 13 November 2001. Although the agreement has not been ratified by the Nigerian parliament and does not contain a clause for provisional application, the Nigerian authorities are applying it as if it were in force, in a manner satisfactory to Spain.

3.3. The future of immigration/readmission agreements

In view of the tremendous difficulties entailed in the readmission of irregular immigrants from Africa and the limitations of the traditional policy based solely on attempts to secure readmission agreements which never materialise, or when

they do are not effective, the Government has devised a global strategy to deal with the problem. The new strategy entails on the one hand mobilisation of all our diplomatic and cooperation resources, both European and bilateral, and on the other hand the design of a new model of bilateral agreement for sub-Saharan countries which includes integrated treatment of the question of migration.

3.3.1. Europe

Spain has been one of the chief promoters of the revamped EU policy towards Africa, which has materialised as the Strategy for Africa and the Global Approach to Migration from Africa, adopted by the European Council last December. The two documents constitute the fullest expression to date of the EU's policy on migration and development with regard to Africa.

3.3.2. The Euro-African Conference on Migration and Development

On the initiative of the Ministers of Foreign Affairs and Cooperation of Spain and Morocco, a Euro-African Conference on Migration and Development was held in Rabat on 10 and 11 July last. This is the first time that the countries of origin, transit and destination of migratory flows from West and Central Africa have met to set up a partnership to deal with all aspects of emigration, on a basis of shared responsibility and the dynamic relationship between migration and development. The Conference approved an Action Plan with short-, medium- and long-term measures in the areas of legal emigration, co-development and the fight against illegal immigration, specifically including the conclusion of readmission agreements between the countries of the European Union and the countries of the Maghrib and sub-Saharan Africa.

3.3.3. Plan Africa 2006–2008

The Spanish government has just set in motion a Plan Africa, in which West and Central Africa are included among the priorities of Spanish foreign policy for the first time. The Plan contemplates a broad range of political, economic, cultural and cooperation measures, including an increased Spanish contribution to the European Development Fund, a rise of more than 300% in the overall volume of national development cooperation for Africa, and provision for a Special Microcredit Fund to finance investment proposals tied to the voluntary return of emigrants and the creation of employment in areas with high rates of emigration. The Plan transcends the bounds of immigration policy, but obviously its initiation will help to create the political, economic and social conditions necessary to deal effectively with the challenge of immigration from Africa.

3.3.4. The New Generation of Immigration Agreements

In the numerous contacts that the Government has pursued in recent months with almost all of the African countries which are points of origin or transit of migratory flows to Spain and the European area, two things have become clear: firstly, African governments reject Readmission Agreements of the traditional kind; and secondly, they look favourably on the conclusion of bilateral agreements founded on an integral approach to the phenomenon of migration.

In line with this approach, which is in fact consistent with the EU's Global Approach to Migration and the conclusions of the Rabat Conference on Migration and Development, the Government is drawing up a new model of Migratory Cooperation Agreement which will cover all aspects of migration – i.e. control of

illegal immigration, the fight against trafficking in people, technical assistance to build up the institutions responsible for matters of migration, legal immigration, integration, return (both forcible and voluntary) and co-development.

The Government hopes very shortly to commence negotiations with those countries which have expressed willingness to conclude this new generation of Immigration Agreements with Spain. These include Mali, Cape Verde, Cameroon, Guinea Conakry, Liberia, Sierra Leone, Niger and Guinea Bissau, Senegal and Gambia.

(*BOCG-Congreso.D*, VIII Leg., n. 455, pp. 457–460).

VI. STATE ORGANS

On 2 November the Government replied to a question tabled in the Senate concerning Spain's augmented institutional presence in Sub-Saharan Africa as regards the establishment of new Embassies, Consulates and Technical Cooperation Offices.

The Ministry of Foreign Affairs and Cooperation has just concluded the opening of new diplomatic missions in the Republic of Mali and the Republic of the Sudan, both with a consular section, and it plans to establish new embassies in Cape Verde, Guinea Bissau and Niger.

There are also plans to open a new Consulate in Dakar (Senegal), and to open consular sections in Abuja (Nigeria) and Pretoria (South Africa).

The Ministry of Foreign Affairs and Cooperation further proposes to continue the diplomatic campaign recently initiated with the Plan Africa in Senegal, Cameroon, Ivory Coast, Cape Verde, Mali, Guinea Bissau, Guinea Conakry, Gambia, Niger, Ghana, Sierra Leone and Liberia.

In order to achieve the goal of contributing to the fight against poverty in sub-Saharan Africa, Plan Africa introduces a set of initiatives whose key element is a quantitative and qualitative leap in the level of Spanish cooperation in Sub-Saharan Africa.

Thus, it is planned to open new Technical Cooperation Offices in Mali, Ethiopia and Cape Verde, to add to those existing in Senegal, Angola, Namibia, Mozambique and Equatorial Guinea. The aim is to carry on consolidating an extensive network of Technical Cooperation Offices with which to effectively intensify Spanish cooperation in Sub-Saharan Africa.

(*BOCG-Senado.I*, VIII Leg., n. 578, p. 14).

The schedule proposed by the Government for the opening of new consular offices in Sub-Saharan Africa had in fact been the subject of a specific question put to the Government in the Senate some months earlier. That question was answered on 20 July 2006, in the following terms:

The action taken to reinforce Spain's consular network in Sub-Saharan Africa has consisted of the following concrete measures:

- Creation of a permanent diplomatic mission with a consular section in the Republic of the Sudan.

- Creation of posts for civil servants in Spain's consulates-general in Cape Town and Pretoria.
 - It is planned to open a new diplomatic mission with a consular section in the Republic of Mali.
 - Plans are in progress to set up consular sections in Spain's embassies in Pretoria and Abuja.
- (*BOCG-Senado.I*, VIII Leg., n. 526, p. 15).

VII. TERRITORY

1. Territory Division. Frontier

Note: See XI Legal Aspects of International Cooperation

Appearing before the Interior Committee of the Congress of Deputies to explain the events of 3 July 2006 which caused the death of three immigrants on the frontier at Melilla, one on the Spanish side of the fence apparently from shots fired by Moroccan police, the Secretary of State for Security, Mr Camacho Vizcaíno reported as follows:

On 3 July 2006, at about 5:13 a.m., a group of between fifty and seventy Sub-Saharan immigrants made what is known as a group attempt to break through the frontier on the city perimeter, in the area lying between the Farhana border crossing-point and the Zoco Had, a section where the three-dimensional barrier is not yet complete. The immigrants, carrying numerous home-made ladders and ropes with metal hooks on the end, had first gathered at an unidentified spot on the outskirts of the Moroccan locality of Farhana (...). When they reached the perimeter screen, before they could climb the outer fence they were surprised by the Guardia Civil (the Spanish Gendarmerie) and were thus forced to move parallel to the fence in the direction of the rise known as Zoco Had. Some 80 metres along, they placed their ladders against the outer fence and tried to climb over. Just as they were starting to jump, the Moroccan security forces – army and auxiliary forces, the *Mehania* – arrived and ordered them to cease their attempt to break in. At that moment (...) the group of immigrants was plunged in commotion; some were arrested by the Moroccan military, but most fled further into Moroccan territory. Five managed to scale the outer fence and reach the area between the fences of the anti-intrusion system. Of these five immigrants, one died in the course of the incidents; the members of the Guardia Civil patrol said that they had seen him fall from the top of the fence. Another was taken to the district hospital with serious injuries.

(...) The first inspection conducted on the ground found that, as noted, the corpse had a clean entry wound beneath the right armpit, at the same height as the chest wound, presumably caused by a bullet. Fragments, presumably of splintered bone, were also found inside the wound.

(...)

Finally, the three immigrants who scaled the outer fence and were intercepted by the Guardia Civil were taken to the short-stay immigrants' centre in Melilla on the same day, 3 July. There they were attended by the centre's team of mediators and social workers, who drew up a report on their condition in the same way as with any other immigrant, stating that they could find no signs of injuries of any kind to them.

(...)

(...) The Guardia Civil most certainly did not fire the shots which killed the immigrant found in Spanish territory and seriously injured another. Secondly – and we can be quite definite about this – the anti-intrusion system or three-dimensional barrier, which is currently in the process of installation, was not the cause of the serious injuries suffered by the hospitalised immigrant and caused no appreciable harm to the immigrants intercepted in the system (...).

(...)

(...) I am sure we all agree that managing a land border – any border – requires surveillance and control activities, which we neither can, should nor would wish to ignore. These activities are being carried on in Melilla following the same rules as apply to the management of any border, with the same legal rules and subject to operational parameters set by the Security Forces under the aegis and the guidance of our legal system, subject to the principles of proportionality and prudence in the use of methods of intervention – which principles have guided the action of the Guardia Civil at all times during these unfortunate incidents. And finally, such action is always undertaken with absolute respect – demanded by this Secretary of State's Office, the Ministry of the Interior and of course also the Government – for the human rights of citizens who seek to cross one of our external frontiers illegally.

(...)

(...) On the same day (3 July) the colonel of the Moroccan gendarmerie informed the head of the Melilla Command by telephone that there was one immigrant dead and six wounded; he stated that the dead person presented no bullet wounds or holes, thus giving the impression that death could have been caused by injuries or contusions suffered during the attack. Besides this communication, there have been reports from various sources of a possible further death and a larger number of injured. We are unable to confirm or deny these reports at this time since the events, as you know, occurred in the territory of a sovereign country having its own procedures of investigation to determine exactly what happened, and in which we have no power to undertake police or judicial enquiries (...) Through the combined action of several departments, particularly the Ministry of the Interior, the Ministry of Labour and Social Affairs and the Ministry of Foreign Affairs and Cooperation, the Government has promoted and is setting in motion a whole series of specific bilateral actions – not only police actions – in Morocco in order to encourage and assist that country's institutions in dealing with immigration. These actions will undoubtedly have – indeed are already having – positive effects on the control and reduction of migratory flows through Morocco, especially those whose destinations are the autonomous

cities of Ceuta and Melilla. Indeed, at this moment Spain is financing 74 projects under actions related directly or indirectly to irregular immigration from Moroccan territory (...).

In addition to these ongoing actions by Spain there are other initiatives within the framework of the European Union, which finances various projects in Morocco under the MEDA programme, (...) incorporating actions aimed at economic development and at management of immigration at frontiers. But our Government's action is not confined solely to Morocco; it also reaches to other areas of the African continent, especially the States in the Sub-Saharan region which come within the scope of Plan Africa as recently approved by the Government. This envisages the creation of a new, more profound and more global framework for our relations with those countries, intensively and substantially expanding our institutional and economic cooperation and our development cooperation, the fight against poverty and the promotion of health programmes on the African continent. This very month Rabat was the venue for the first Conference on Immigration and Development, which under the forceful sponsorship of Spain, France and Morocco concluded with the approval of an action plan including a total of 62 measures intended to achieve orderly management of migratory flows between West Africa and Europe. Our Government knows that intervention in the countries of North and Sub-Saharan Africa through initiatives of this kind contains an element of solidarity with the population of Africa and of commitment to the political and economic development of these countries, which we ought not to forget and we ought all to resolutely support with long-term structural actions – for as long as situations of misery, sickness and hopelessness persist there, the factors that drive these citizens to abandon their countries will remain, and it is precisely these factors that we must try and help eradicate through our action. Only by tackling the root of the problem can we avert fatal consequences.

(*DSC-C*, VIII Leg., n. 636, pp. 2–8).

Appearing before the Senate Foreign Affairs Committee in response to a parliamentary request to report on international border matters affecting the district of Cerdanya, the Minister of Foreign Affairs, Mr Moratinos Cuyaubé, stated that:

The meetings held by the Spanish and French delegations within the framework of the Bayonne Treaty on cross-border cooperation have led to significant progress, as witness the agreements or declarations signed in the course of the high-level meeting on cross-border cooperation held in Barcelona on 13 October last. At the meeting, two agreements were signed dealing with health matters of particular interest to Catalonia (...).

In the field of overland transport, at a press conference following the meeting I referred to on 26 June, the French Transport Minister stated that his government intended to initiate a survey for the construction of a high-speed railway line from Nîmes-Perpignan which would link up with the AVE Madrid-Zaragoza-Barcelona-French Border line, with a view to commencing works around 2015 (...).

(...)

I can also relate the meeting that took place on 2 October last, which reviewed the most pressing issues relating to the enclave at Llívia at this time, the first being the French desire to build a new roundabout on the neutral road linking Llívia and Puigcerdá, which would entail opening up a new junction on that road. Llívia Town Council is absolutely opposed to this, and in the absence of bilateral agreement its execution by the French would constitute a violation of the Bayonne Treaty.

The local authority's objection is based on the fact that it would hamper free passage along the neutral road mentioned, and on the environmental and economic harm that it would cause to the town.

The meeting also discussed the supply of drinking water to Llívia and the restitution of the water diverted to supply several French localities on the river Er. An agreement was signed 30 years ago but was never implemented by the French side, to the detriment of Llívia, which not only lost much of its drinking water supply but also lost irrigation waters, as a result of which much of its land had to be turned over to dry farming. The problem could be solved by channelling water over a distance of a kilometre and a half to a reservoir and by a payment of around € 90 000 by the French.

(...).

(DSS-C, VIII Leg., n. 370, p. 6).

2. Colonies

a) Gibraltar

In reply to a parliamentary question in Congress regarding Spain's representations to Great Britain to stop nuclear submarines putting into the naval base on the Rock of Gibraltar, the Government explained:

(...) it has repeatedly informed the British government of the special sensitivity of Spanish public opinion regarding this question, and the concern that such stopovers should take place with the strictest safety guarantees; the British government has been reminded of the undertaking made in May 2001 by Foreign Secretary Robin Cook to Josep Piqué, the Spanish Foreign Minister at the time, that the repairs to the submarine "HMS Tireless", which lasted almost a year, were a totally exceptional case. The government of the United Kingdom has been asked to confirm this verbal undertaking, in writing, and the matter is currently the subject of conversations with the British authorities.

The Spanish government cannot prevent nuclear-powered submarines from putting into the port of Gibraltar since the internal waters of the port were ceded by Spain to Great Britain by the treaty of Utrecht of 1713, and Spain does not have jurisdiction over these internal waters.

The Spanish government has received assurances from the British authorities regarding stopovers by submarines, which represent the strictest possible guarantees under the standards currently observed by NATO countries. The

United Kingdom kept the Spanish authorities duly informed, through the usual channels, of the visit to the port of Gibraltar by the Trafalgar Class nuclear submarine “HMS *Trenchant*” from 24 to 28 of September 2005, and of the visit by another Trafalgar Class nuclear submarine, “HMS *Turbulent*” from 30 September to 8 October.

The Government’s priority is to guarantee the safety of the population of Campo de Gibraltar. Had there been the slightest risk, the Government would have so informed the United Kingdom through the usual channels and would have taken appropriate steps.

Also, the Ministry of Defence runs operational radiation monitoring groups from the Navy as part of the Environmental Radiation Monitoring Plan. These are activated forty-eight hours before any nuclear submarine is due to berth in Gibraltar.

(...)

Visits to Gibraltar by nuclear submarines are the subject of discussions in the Forum of Dialogue on Gibraltar, and also in the context of regular bilateral contacts with the British authorities. Within this framework, Spain and the United Kingdom are working to produce a written form of the undertaking made in May 2001 by Foreign Secretary Robin Cook, acknowledging the exceptional nature of the repairs to the nuclear submarine “HMS *Tireless*”.

In Madrid, 5 December 2005. – The Secretary of State for Relations with the Cortes.

(*BOCG-Congreso.D*, VIII Leg., n. 316, pp. 436–437).

Appearing before the Senate Foreign Affairs Committee to report on the first ministerial meeting of the Forum of Dialogue on Gibraltar, the Minister of Foreign Affairs Mr Moratinos Cuyaubé stated that:

(...) On the occasion of my speech at the General Assembly on 21 September last, I had the opportunity to explain the contents of the agreements concluded in Córdoba on 18 September within the framework of the Trilateral Forum for Dialogue, in accordance with the spirit of the relevant United Nations resolutions. I wished to make it quite clear that these agreements detract nothing from Spain’s aspirations as regards sovereignty and that, as the United Nations General Assembly itself has ruled, negotiations on sovereignty between Spain and the United Kingdom must continue. Spain’s positions on the dispute, then, has not changed. In the exercise of their responsibilities on matters of foreign policy, successive Spanish governments have always been able to rely on the backing of this Parliament for the defence of Spain’s positions on Gibraltar, and this provides great support at the negotiating table (...).

In the Government’s view, the agreements reached at the Córdoba meeting are entirely satisfactory both from the standpoint of our foreign policy and as regards the interests of the Campo de Gibraltar. With these agreements our traditional position as regards sovereignty has been strengthened (...). At the same time, and even more importantly, the Government of Gibraltar understands and explicitly accepts that the reference to sovereignty is a purely bilateral issue

concerning only the United Kingdom and Spain. Nonetheless, while remaining firm in our position on the basic issue, with these agreements we have paved the way towards a climate of dialogue which will lead to further results and allow us to tackle the issue of sovereignty when the time is right.

(...)

In view of the impossibility of continuing with the conversations on co-sovereignty as they had been left in July 2002, and with the celebrations in 2004 marking the 300th anniversary of the British occupation of Gibraltar, we were faced with two alternatives: to carry on with the same confrontation or to open up an avenue of dialogue through which to try and solve concrete problems. For all those reasons, we chose the second option, and on 27 October I and my British colleague decided to set up the trilateral Forum for Dialogue, whose first fruits were the Córdoba accords.

(...) The accords reached at the ministerial meeting of the Forum for Dialogue on Gibraltar on the 18th last in Córdoba (...) give us an opportunity to put an end to situations, like that of pensions for former Spanish workers in Gibraltar, which had gone unsolved for too long and considerably affected their day-to-day lives; and they also constitute a magnificent instrument with which to foster the economic and social development of the Campo de Gibraltar, as the economic agents have been quick to recognise.

(...) The ministerial declaration regarding Gibraltar airport provides an agreement that will boost the economy of the area and at the same time will favour greater economic integration between the Campo de Gibraltar and Gibraltar. Once it comes fully into force, this new agreement on the airport will replace the joint agreement on the airport of 2 December 1987, which was signed by Spain and the United Kingdom and rejected by the people of Gibraltar.

The agreement contains a clause that safeguards the respective positions regarding sovereignty over the isthmus, so that no action flowing from it may be claimed to signal a change in the position of either party.

(...)

Flights between Spanish airports and Gibraltar airport will be considered domestic flights and passengers and baggage coming from or heading north of the border will therefore not be subject to controls either by the Spanish or the Gibraltarian authorities.

The agreement on pensions for Spanish workers formerly employed in Gibraltar and affected by the closing of the border in 1969 will allow us to close this painful chapter, which has been a priority concern of the Government ever since work began on the Forum for Dialogue. This problem afflicts a group of around 5700 surviving pensioners whose pensions have been frozen since 1989.

The solution arrived at will make it possible to compensate these pensioners with a lump sum, to be paid by the United Kingdom, equivalent to what they lost through non-uprating.

(...)

A non-inconsiderable consequence of this solution is that Spaniards currently employed in Gibraltar, who number about 4000, will also be able to look for-

ward to their future retirement with an easy mind, since the agreement reached means that from April 2007 on, the Government of Gibraltar will be able to uprate all employees' pensions.

(...) One of Gibraltar's traditional complaints has been the relative scarcity of telephone numbers available in the colony for communications with Spain (...).

The agreement reached in Córdoba is intended to strike a balance: on the one hand, in approximately four months it will be possible to make calls between Spain and Gibraltar using the technical procedures recommended by the International Telecommunications Union for all States and territories, with the attendant possibility of roaming agreements for mobile telephony; and on the other hand, during the negotiations at the Forum for Dialogue the Gibraltarians have been persuaded to transpose the European regulations governing telecommunications to their own legislation, thus opening the door of opportunity there to Spanish operators.

I should stress that the assignment by the ITU of an international prefix to a territory like Gibraltar in no way affects the legal status of that territory, nor does it constitute any kind of political recognition; in fact the ITU assigns codes to territories recognised by the United Nations as colonies, for example the Falkland Islands, whose code is 500; territories which are integral parts of a sovereign State, such as Hong Kong, whose code, 852 is different from that of the People's Republic of China, code 86; or it assigns the same code, 1, to several sovereign States: Canada, the United States and the Dominican Republic.

As far as crossing the border is concerned, we wished to discuss that issue at the Forum for Dialogue, taking two factors into account: one, that the controls on the 7 million-plus people who cross the border yearly will continue to be strict because Gibraltar does not belong to the Schengen Area Customs Union; and two, we must not forget that over 4000 of our countrymen and 3000 Gibraltarians who are resident in Spain cross the border daily.

(...)

And finally, I would not like to conclude without mentioning another outcome of the ministerial meeting which will be of considerable importance for the long term, and that is the opening of a Cervantes Institute in Gibraltar. Although most Gibraltarians speak it, the Spanish language is losing ground, especially among the younger generations (...) and this will have effects over the long term; for instance it will affect the possibility of youngsters pursuing their studies at universities and secondary schools in Spain, near home, rather than having to move to the United Kingdom to study.

(DSS-C, VIII Leg., n. 370, pp. 4-5).

VIII. SEAS, WATERWAYS, SHIPS

Note: See IX. International Spaces and X. Environment

1. Baselines and boundaries

In response to a parliamentary question tabled in the Senate, the Government reported on the meetings held with the Kingdom of Morocco to demarcate the maritime zones situated between the Canary Islands and Morocco:

The Spanish-Moroccan Group for demarcation of maritime zones on the Atlantic seaboard has held eight bilateral meetings, the last at the headquarters of the Minister of Foreign Affairs and Cooperation in Madrid on 10 October 2005.

At that meeting the two delegations exchanged views on the definition of a common area of cooperation and on the question of demarcating maritime zones, discussing inter alia oil and gas exploration, marine pollution, operational safety, safety at sea, rescue on the high seas, cooperation on fishery matters and maritime cooperation on an international scale.

The parties agreed to continue their contacts with a view to intensifying their bilateral relations on the basis of a pragmatic approach which takes account of the positions that each party has been maintaining at previous meetings regarding the demarcation of contiguous maritime zones on the Atlantic seaboard, in which Spain has repeatedly insisted on the use of a median line.

In accordance with the principle of alternation followed until now, the Moroccan side should, subject to consultations, call the next meeting of the working group, which will carry on working along the lines indicated.

Madrid, 7 July 2006.

(*BOCG-Congreso.D*, VIII Leg., n. 526, p. 13).

2. Islands

Note: See VIII.1

3. Exclusive Economic Zone

Note: See VIII.5.c) Norway

4. High sea

Note: See IX. International Spaces

5. Fisheries

Note: See IX. International Spaces

a) Morocco

In response to a parliamentary question tabled in the Senate on the EU/Kingdom of Morocco fisheries agreement, the Government reported:

The EU-Kingdom of Morocco fisheries agreement was approved by the EU Council of Fisheries Ministers on 22 May 2006, with the support of the European Parliament.

It was subsequently approved by the Moroccan government, and at Brussels on 26 July last it was ratified jointly by the Commission, the Council and Morocco.

At this time we only await the formality of ratification by the Moroccan Parliament for it to come effectively into force.

At the same time, the joint declaration by the European Community and the Kingdom of Morocco made at Brussels on 14 July 2006 established that the financial consideration is for a period of 4 years as from the first day that the Agreement comes into force and is not retroactive.

This fisheries agreement does not cover shrimp trawling or the Mediterranean area.

Madrid, 23 August 2006.

(*BOCG-Senado.I*, VIII Leg., n. 537, pp. 434–435).

b) Mauritania

In response to a parliamentary question tabled in the Congress on the EU/Republic of Mauritania fisheries agreement, the Government reported:

The latest round of negotiations between the European Commission and the fishery authorities of the Islamic republic of Mauritania, which took place at Nouachott from 12 to 22 July, culminated with the signing of a new 6-year agreement and a protocol for its application.

After almost a year of negotiations an agreement has been concluded which will enable the Spanish fleet to continue fishing in the Mauritanian grounds as from 31 July.

This agreement extends the possibilities of operation for our fleet – for over a hundred Spanish vessels which have been engaging in the various types of fishing in these waters – and it further includes a new category which will allow for the deployment of up to two units engaged in crab fishing with pots.

(...)

The activity of the Community fleet will not be interrupted, as a specific mechanisms has been agreed on to allow automatic renewal of fishing permits for vessels present in the fishing ground.

As to financial compensation, an agreement has been achieved which entails no change from the previous one; in other words, the annual cost will be 86 million euros (516 million over the 6 years that the agreement will last). A substantial part of this financial contribution will be devoted to promoting

development of the Mauritanian fisheries sector and to achieving sustainable fisheries in Mauritanian waters.

(...)

Madrid, 20 September 2006.

(*BOCG-Congreso.D*, VIII Leg., n. 455, pp. 452–453).

c) Norway

Appearing before the Agriculture, Fisheries and Food Committee of the Congress of Deputies to report on the arrest of three vessels flying the Spanish flag in Norway, the Secretary-General of Sea Fisheries, Mr. Martín Fragueiro, stated that:

(...) fishing in the Svalbard archipelago is regulated by the Treaty of Paris of 9 February 1920, to which Spain has been a party since it came into force in 1925. Under the literal terms of this treaty, it is up to Norway to maintain, take or dictate the appropriate measures to ensure the conservation, and if appropriate the reconstitution, of the fauna and the flora of the said regions and their territorial waters. Spain therefore takes the view that although Norway is competent to establish fishery regulations, is the flag State, which is the one empowered to take coercive or punitive measures in the event that any breach is detected in the course of such inspections. This Government therefore does not recognise the fisheries protection zone around Svalbard as equivalent to Norway's exclusive economic zone, and hence Norway has no right to take measures in respect of vessels flying the Spanish flag. For instance, if an inspection by the Norwegian Coastguard should reveal evidence of infringement, the proper course is for Norway to forward its inspectors' report to the Spanish fisheries authority for the latter to deal with the matter. However, this view is not shared by Norway, which considers that these waters have the same status as its exclusive economic zone, so that it is entitled to arrest any vessels allegedly infringing the current fishery regulations. Norway argues that it is necessary to adapt the conservation and management measures laid down in the Treaty of Paris to the United Nations Convention on the Law of the Sea in such a way that Norway is able to introduce an exclusive economic zone without limitations of any kind as from its entry into force.

I must stress that the European Union has always stood by Spain in this legal dispute, defending the position that only the flag State is entitled to arrest a vessel and take the appropriate legal action in the Svalbard area. Indeed, this was forcefully put by the European Fisheries Commissioner Joe Borg at a meeting of the Council of Fisheries Ministers on 22 November 2005. Moreover, at Spain's request the Commissioner reiterated this message to the Norwegian Fisheries Minister Helga Pedersen on 21 February this year. Both the European Union and Spain, then, maintain that the terms of the Treaty of Paris remain in force, and therefore that Norway does not possess sovereign rights in these waters (...).

(...) The first case of arrests of vessels took place in 2004 and was repeated in 2005 and 2006. In all these cases the Government has acted firmly and

resolutely in defence of the interests of the Spanish fleet, taking a hand in all the administrative and consular actions and the international contacts that these regrettable events have necessitated (...).

(...) Verbal notes of protest have been sent to the Norwegian authorities, and likewise official protests, at the request of the Ministry of Agriculture, Fisheries and Food, for breach of the 1920 Treaty of Paris. Permanent contact has been maintained with the Norwegian authorities through our ambassador in Oslo (...). At Spain's request two technical meetings and several sessions of the working groups on the law of the sea have been held at the Council of the European Union to deal with this dispute (...). In every case the Secretariat-General of Sea Fisheries has sent an inspector to be present at all inspection operations conducted by the Norwegian Coastguard (...). This was done in the cases of the vessels *Arosa Quince*, *Arosa Doce* and *Arosa Nueve*, which, as you know, all belong to the same company (...). Upon the demand for an unprecedentedly high bail of 9.5 million euros for the release of the three fishing vessels, at the request of the Ministry of Agriculture, Fisheries and Food the Ministry of Foreign Affairs sent an urgent telegram to the Spanish ambassador in Oslo asking for a meeting at a sufficiently high political level in order to protest at the utter disproportion of the bail demanded. In the wake of these representations, bail was set at 3.6 million euros, which amount was finally reduced to 2.3 million euros in response to an appeal lodged by the shipowners and the representations made by the Administration (...)."

(*DSC-C*, VIII Leg., n. 643, pp. 3–5).

Again in connection with the arrest of the three Spanish vessels, in a subsequent appearance before the Senate Agriculture, Fisheries and Food Committee, the Secretary-General of Sea Fisheries, Mr. Martín Fragueiro, reported that:

The latest developments of note have been a meeting which the Spanish Minister of Foreign Affairs and Cooperation held in New York in September with his Norwegian opposite number in connection with the problems surrounding Svalbard. The Spanish side made clear its position regarding the legal status of these waters. The two ministers expressed a common interest in continuing to explore bilateral mechanisms in order to close the gap between their positions, although the Spanish side declined to rule out any of the currently existing options in light of how events develop.

Let me just finish by noting that the three vessels, the chief charge against which has been under-reporting cod catches in excess of the margin of tolerance laid down in the Community regulation, were inspected upon their return to Vigo and the infringements detected by the Norwegians were confirmed. In accordance with the current legal procedures, reports of the infringements have been drawn up and the appropriate penalising procedures set in motion.

Briefly then, Honourable Members, all resources up to the highest level have been brought to bear in order to place on record the Government's position in defence of the interests of our fleet in the area, and this we have done with absolute firmness, total transparency and total honesty. I remain at your

disposition for any questions you wish to put and any clarifications you may deem necessary.

(DSS-C, VIII Leg., n. 384, p. 18).

6. Ships

Note: See VIII. 3. c) Norway and IX. International Spaces

IX. INTERNATIONAL SPACES

Appearing before the Senate in Full Session to answer a parliamentary question on attacks by pirate vessels on Spanish ships and fishing vessels in international waters off Somalia, the Minister of Foreign Affairs Mr. Moratinos Cuyaubé reported that:

(...) crime at sea is a serious problem which affects the entire international community and is being systematically addressed in international forums. The total number of acts of piracy reported world-wide in 2005 came to nearly 300, and one of the areas most affected is the Indian Ocean and East Africa, where Spanish ships and fishing vessels ply.

In addition to the steps being taken by international bodies, the Government is considering sending a Spanish frigate, and a helicopter if necessary, for the protection and safety of our ships and fishing vessels.

Also, a number of agreements are being negotiated with other countries to ensure that our ships and fishing vessels are able to operate safely in the area.

(DSS-P, VIII Leg., n. 83, p. 4838).

X. ENVIRONMENT

1. Climate Change

Replying to a question in the Senate on 3 July 2006 regarding the impact of climate change in Spain and its forecasts for greenhouse gas emissions, the Government stated:

The main thrust in the fight against climate change to date has focused on policies and measures of mitigation – that is, aimed at reducing greenhouse gas emissions into the atmosphere and promoting their sequestration. But despite this, we are still a long way from achieving the ultimate goal of the United Nations Framework Convention on Climate Change (UNFCCC), namely planet-wide stabilisation of atmospheric greenhouse gas concentrations.

In recent years a lot of evidence has been built up on climate change and its impact on different sectors and systems, and limits are being placed on the uncertainties relating to projections of future climatic scenarios. For that reason,

we consider that adaptation to climate change is necessary and complements mitigation actions.

A country's vulnerability to the effects of climate change depends on the scale of the change, the expected impacts and its capacity to adapt so as to minimise these impacts. Because of its geographic situation and its socio-economic characteristics, Spain is very vulnerable to the effects of climate change, and it is therefore essential to enhance our capacity to adapt.

In an initial response to this situation, in 2003 and 2004 the Ministry of the Environment promoted a project known as ECCE (*Evaluación del Cambio Climático en España*/Evaluation of Climate Change in Spain), in the form of an Agreement with the University of Castilla-La Mancha.

The project was concluded in December 2004 and its results were made public in February 2005, coinciding with the entry into force of the Kyoto Protocol. (...)

Following on from and building on that project, the Ministry of the Environment, through the Spanish Climate Change Office, has drawn up a 'National Plan for Adaptation to Climate Change' (*Plan Nacional de Adaptación al Cambio Climático* – PNACC).

The ultimate goal of the PNACC is to integrate adaptation to climate change in the planning of the various socio-economic sectors and ecological systems in this country. The Plan is conceived as an ongoing, cumulative process of knowledge generation and creation and enhancement of capacities to apply that knowledge. It will serve to provide assistance to all interested administrations and organisations – public and private – in evaluating the impacts of climate change in their areas of interest, furnishing know-how, tools and methods and promoting participatory processes which will help to define the best options for adaptation to climate change.

The PNACC was presented in February 2006 in three of the principal government bodies responsible for coordinating environmental policy in general and climate change in particular:

- * *Comisión de Coordinación de Políticas de Cambio Climático*/Commission for Coordination of Climate Change Policies.

- * *Consejo Nacional del Clima*/National Climate Council.

- * *Conferencia Sectorial de Medio Ambiente*/Sectoral Conference on the Environment.

(...)

The Plan is to be implemented by means of Work Programmes proposed by the Spanish Climate Change Office. These Programmes will set out the activities and projects that are to be carried out, with a calendar, whose duration may vary according to their nature.

Participation is an extremely significant aspect of the National Adaptation Plan, in that it will be the means of achieving the goal of integrating adaptation to climate change into the various sectoral policies.

Information, communication, training and awareness-raising are likewise social instruments which, along with participation, are considered very important for

achieving effective results from the National Plan for Adaptation to Climate Change.

The first Work Programme for implementation of the PNACC envisages the following activities:

- Generation of regional climatic scenarios. Objectives:

- * To develop and document regional climatic scenarios for Spain and place them at the disposal of the National Adaptation Plan.

- * To set in motion a mechanism for operational generation and updating of regional climatic scenarios for Spain, for periodic input to the National Adaptation Plan.

- Evaluation of the impact of climate change on water resources. Objectives:

- * To draw up an evaluation of the impacts of climate change on water resources in Spain in the 21st century using quantitative and qualitative water scenario models.

- * To undertake a preliminary appraisal of the potential effects of climate change on irrigation demands in Spain.

- Evaluation of the impact of climate change on biodiversity. Objectives:

- * To identify those Spanish habitats and taxa that are most vulnerable to climate change in Spain, and to estimate their capacity to adapt to it during the 21st century.

- Evaluation of the impact of climate change on coastal areas. Objective:

- * To identify those areas and elements of the Spanish coast that are most vulnerable to the effects of climate change in the course of the 21st century, and to assess their environmental value.

(*BOCG-Senado.I*, VIII Leg., n. 512, pp. 14–15).

Again, on 13 December the Minister of the Environment, Mrs. Narbona Ruiz, replied in Congress to a question on the assessment of Spain's participation in the Twelfth United Nations Conference on Climate Change, which took place in Nairobi from 6 to 17 November 2006:

This was no run-of-the-mill summit; it has marked a step forward in the consolidation of international commitments, despite the fact that there are still developed countries – in particular the United States and Australia – which refuse to ratify the Kyoto Protocol. And yet we were able to witness there how their societies – the citizens of these two countries – are advancing faster than their governments, and also the fact that in both Australia and the United States, there are regional authorities, States and local authorities which have already voluntarily undertaken to comply with the Kyoto Protocol.

Spain actively supported the position of the European Union and also contributed to the final consensus, particularly through the influential network of relations that we have built up in the Latin American sphere through the Ibero-American network of climate change offices. In this network we have a perma-

nent working tool which further enables us to promote a positive, constructive position among the large countries of the Latin American region – countries which are now beginning to give clear signs of a willingness to enter into voluntary commitments regarding their greenhouse gas emissions. Honourable Members, there we discovered that Spain at this time is the country out of the whole world that contributes most to the transfer of technology in clean and renewable energies to developing countries. That is undoubtedly something we can be proud of. It means, among other things, that our enterprises are well equipped to develop the new energy solutions that humanity, and most particularly the poorest countries, need. Moreover, Spain was the first country to make a contribution on the spot to the initiative launched by Kofi Annan for aid to the poorest countries, both in Africa and Latin America, to help them develop what we call clean development mechanisms; (...).

(*BOCG-Congreso*, VIII Leg., n. 221, pp. 11208–11209).

In fact the assessment of the application of the Kyoto Protocol in Spain was the particular object of a question tabled in the Senate, to which the Government replied on 27 January in the following terms:

In order to ensure Spain's fulfilment of its commitments under the Kyoto Protocol, the Government set an objective in the National Emission Rights Allocation Plan 2005–2007 (Sp. acronym PNA), as approved by Royal Decree 1866/2004, such that Spain's emissions in the period 2005–2007 would be stabilised at the average level of emissions from the last three years for which emission data are available (2000–2002).

The PNA provides for the burden to be shared between the sectors coming within the scope of Royal Decree-Law 5/2004 of 27 August and those not doing so, in direct proportion to the present situation in overall national emissions; this means 40% for the sectors included and 60% for the sectors not included in Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community.

On that basis emission rights were allocated on an individual basis to installations coming within the scope of Royal Decree-Law 5/2004 of 27 August, and the technical adjustments required by the PNA were implemented.

An additional effort to reduce emissions will also be required to comply with Article 9(1) and annex III of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003, which are to be implemented in 2008–2012 in such a way that at the end of the period emissions must not exceed 1990 emissions by more than 24%. That figure was reached by adding the limitation target in the Kyoto Protocol (15%) to the estimated absorption by sinks (at most two per cent) and the credits obtainable on the international market (7%).

At the same time, other highly important initiatives have been set in motion to complete the strategy for implementation of the Kyoto Protocol:

- Action Plan 2005–2007, part of the Spanish Energy Efficiency Strategy, and Renewable Energy Plan 2005–2010, approved by the Government in July 2005.

- Promotion of flexible mechanisms as provided in the Kyoto Protocol, through the creation of carbon funds. In April 2005, authorisation was granted for the creation of a Spanish fund to be managed by the World Bank, and Spain's participation in other existing carbon funds run by the Bank. At the same time, contacts are being promoted for the acquisition of rights in other multilateral institutions like the *Corporación Andina de Fomento*, the European Bank for Reconstruction and Development and the European Investment Bank, and Memoranda of Understanding are being concluded with various countries which are in a position to host projects to facilitate the implementation of these flexible mechanisms.

- Also, a national authority for project mechanisms has been appointed, is in place and has already approved Spanish participation in several of them.

- Commissioning of the emissions register (Spanish acronym RENADE) and market mechanisms. The national registry of emission rights, which is essential for the new market, became operational in June 2005 (the ninth in the EU to do so).

- With a view to promoting sustainability policies in connection with the reduction of greenhouse gas emissions in Spanish towns and cities, the Ministry of the Environment has concluded a framework collaboration agreement with the Spanish Federation of Municipalities and Provinces (Spanish acronym FEMP) which provides for the creation of the Spanish Cities for Climate Protection Network. The purpose of this Network is to promote sustainable development policies and, within that context, to foster local policies for combating climate change that will help to reduce greenhouse gas emissions and meet Kyoto Protocol objectives, particularly in aspects connected with: Energy, Transport and Building, and Urban Planning.

(*BOCG-Senado.I*, VIII Leg., n. 397, p. 16).

2. Protection of Biodiversity

Replying on 6 June to a question in the Senate regarding the Ministry of the Environment's evaluation of the Spanish Biodiversity Strategy, the Government stated as follows:

The Government has carried out the following activities and/or has set the following objectives in implementation of the Spanish Biodiversity Strategy:

- Updating of the Spanish Strategy for Preservation and Sustainable Use of Biological Diversity and adaptation to the Government's commitment to halt the loss of biodiversity by 2010. The last review of the Strategy (2005) included an introduction, a summary of the diagnosis, principal measures (organised according to the articles of the Convention on Biological Diversity) and a summary of the principal measures.

- Drafting of a new Natural Heritage and Biodiversity Act to replace the Natural Spaces and Wild Flora and Fauna (Conservation) Act, Law 4/1989 of 27 March.

- Approval by the Cabinet of a National Strategic Plan for Biodiversity, which will be organised around that Strategy and will complement the new Natural Heritage and Biodiversity Act.

- Finally, drafts or proposals are already available for the drawing up of sector plans for the productive sectors identified in the previous version of the Strategy. All contain measures for each sector which may be of particular use to achieve progress in more detailed design and preparation of the sector plans. It is regrettable that they should not yet have been implemented, since sectoral involvement with the environment is clearly the shortest route to halting the loss of biodiversity.

On the other hand, many of the measures envisaged in the Strategy are already in place. These include:

- Deployment and consolidation of the Natura 2000 Network in Spain.

- Completion of the network of protected natural terrestrial spaces for 2010 and protected natural marine spaces for 2012, so that they account for at least 10% of our ecological wealth, and approval and updating of planning instruments for them.

- Completion and updating of the Ministry of the Environment's National Biodiversity Inventory.

- Preparation and periodic updating of Red Lists and Red Books of endangered wild species.

- Preparation and updating of marine resource inventories.

- Identification and designation, by 2012, of marine areas of importance, in response to the Fourth Protocol of the Barcelona Convention and Annex V of the OSPAR Convention.

- Review of endangerment categories and cataloguing of endangered species and populations.

- Updating of the National Catalogue of Endangered Species in accordance with the Cataloguing Guidance Criteria approved by the National Commission for Nature Protection.

- Drawing up of conservation strategies for endangered species.

- Development of a national strategy to deal with exotic invasive species.

- Imparting of training courses on the CITES Convention for customs, foreign trade centre and SEPRONA personnel, prosecutors and judges.

- Increased financial and organisational support for the Secretariats of biodiversity-related Conventions and other international bodies.

- Continued support from the Ministry of the Environment for the IUCN Centre for Mediterranean Cooperation.

(*BOCG-Senado.I*, VIII Leg., n. 492, pp. 16–17).

XI. LEGAL ASPECTS OF INTERNATIONAL COOPERATION

1. Development Cooperation

a) General Lines

Appearing before the Congress Committee on International Development Cooperation, the Secretary of State for International Cooperation, Mrs. Pajín Iraola, reported on the general lines of the Annual International Cooperation Plan (Spanish acronym PACI) for 2008:

(...) Spain is convinced that the Millennium Development Goals are attainable as long as there is firm commitment from governments and as long as it is necessary to pursue – in conjunction with other policies – a genuine development cooperation policy that is more caring, more effective and of better quality.

(...)

(...) The general aim of the Annual Plan envisages improvement in processes of coordination among the agents of Spanish cooperation, with a view to rendering our actions more useful and making our aid more precise and transparent. Our aid needs to grow as fast in magnitude as it is growing in quality (...).

Secondly, the 2006 Annual Plan reflects an increase in Official Development Assistance for the second year running, this time sharp enough to reach the threshold of 0.35.

The Annual Plan also showcases the increased scale and dynamism of Spain's involvement in international efforts to attain the Millennium Development Goals. In this connection I would point out that the challenges posed by the Millennium Declaration cannot be met without the assistance of a solid and effective multilateral system. For that reason, Spanish cooperation promotes the involvement of international bodies concerned with the attainment of these goals in the United Nations, the European Union and the Development Assistance Committee (...).

The fourth major aspect of the annual plan that I wish to highlight is the way that the share of less advanced countries in assistance has augmented while support for the preferential regions of Latin America and the Mediterranean has been maintained. In 2004, the assistance channelled towards less advanced countries, most of them in Sub-Saharan Africa, accounted for 13.7 per cent, a share which in my opinion does not match the commitments that Spain has acquired in this connection. Therefore, for 2006 the agents of Spanish cooperation forecast that 18.7 per cent of bilateral ODA will be allocated to the group of less advanced countries, thus taking a large step towards fulfilling the commitment to raising bilateral aid to less advanced countries to 20 per cent within the current legislature (...).

In fifth place I would note that the Annual Plan calls for assistance to be oriented towards achievement of the Millennium Development Goals. To that

end, the Annual Plan deals with the various lines of Spanish cooperation that have a direct bearing on the goals set out in the declaration (...).

The sixth aspect of this International Cooperation Annual Plan that I wish to highlight is the fact that it envisages allocating over 20 per cent of distributable contributions to the provision of basic social services (...).

The 2006 PACI also deals with the restructuring of Spanish humanitarian action. The principal actions are aimed at reforming existing bodies, introducing coordination mechanisms and enhancing our presence in international organisations (...).

As to the adoption of a generous foreign debt management policy aligned with international initiatives, the Annual Plan incorporates the Cabinet's approval of the agreement extending commitments to additional debt cancellation contained in the IPIC initiative while laying down the principles for a debt conversion policy. This policy, which was first implemented in 2005, can be seen at work in the debt conversion programmes implemented in priority Latin American countries, notably Ecuador, Bolivia, Nicaragua, Honduras and Guatemala. Carrying on along the same lines for 2006, the forecast ODA for debt reorganisation operations is € 456 million. Of these, operations totalling € 188 million are contemplated within the framework of the IPIC initiative, targeting countries such as Ivory Coast, Togo, the Democratic Republic of the Congo, Sudan and Guinea Conakry. It is likewise planned to promote initiatives in the field of development education and social awareness (...).

And finally, this 2006 Annual Plan would not be complete without promotion of co-development. A consensus document on co-development and advances in the initiative to combat hunger and poverty by exploring the possibilities of using remittances as a development tool, drawn up by the Development Cooperation Council working group, will provide guidelines for pilot co-development experiments in countries like Morocco and Ecuador.

(...)

(DSC-C, VIII Leg., n. 525, pp. 2–6).

b) XVI Ibero-American Summit

Note: See II. Sources of International Law.

c) Alliance of Civilisations

Appearing before the Senate Committee on Foreign Affairs and Cooperation to report on the meeting of the 'Alliance of Civilisations' High Level Group in Qatar and the dialogue with the Islamic world regarding the general situation in the Middle East, the Minister of Foreign Affairs and Cooperation, Mr. Moratinos Cuyaybé, offered the following explanation:

(...) the proposal of the Spanish President of the Government to create an Alliance of Civilisations was initially conceived as an invitation to break down the walls of intolerance and aggression. In his appearance at the plenary meeting of the UN General Assembly in September 2004, José Luis Rodríguez Zapatero

recalled the fall of the old Berlin Wall and the need to prevent hatred and incomprehension from raising another one.

(...) The direction that the Alliance of Civilisations initiative should take is something that Spanish security policy has been working on one way or another for some time. That is the significance of the Euro-Mediterranean process pursued by the European Union in Barcelona, which is a first and a successful example of putting the principles that inspire the so-called Alliance of Civilisations into practice. The recent Barcelona Summit has lent a regional impetus to the principles of the Alliance of Civilisations and has already created a network of cooperative relations among us all; this is something whose political potential we ought to exploit to the full, although it does perhaps lack the global dimension which only the universal stamp of the United Nations can impart. For that reason this initiative may be seen as complementing others already in progress, but unlike previous ones, the Alliance of Civilisations seeks to achieve a broad international consensus around a proposal of concrete political actions.

(...) As the President of the Government himself noted in his presentation to the United Nations, the Alliance of Civilisations aspires to become an alliance against extremism and stresses that the international fight against terrorism must be founded on cooperation of all governments and on an understanding of all the dimensions and circumstances of the phenomenon.

The High Level Group created by the United Nations Secretary-General to set in motion the exercise in joint discussion has already held two work meetings. A first meeting was held in Palma de Mallorca in November 2005, where the opening ceremony was attended by the Spanish and Turkish Prime Ministers. A second meeting held at Doha on 26 and 28 February last was attended by the United Nations Secretary-General Mr. Kofi Annan, the Secretary-General of the Islamic Conference Organisation and the Secretary-General of the Arab League, as well as the Spanish and Turkish Ministers of Foreign Affairs as co-sponsors. But the success of the meetings has not been due solely to the high rank of the participants, but also to the fact that progress has been made in analysing different perceptions and a debate has been started off on the concrete proposals for political action that the group is to put to the United Nations Secretary-General at the end of this year.

The group was divided into three working groups: policy and media, (...), education and youth, (...) and immigration, (...). The policy group was of particular interest since its evaluation and diagnosis will affect the way in which the various recommendations are conceived and modulated.

Of the matters dealt with in the different working groups I should like to highlight the following: Firstly, the identification of the chief political problems which in one way or another lie at the root of the clash of mutual perceptions; the compiling of a catalogue of possible grievances on that basis; preparation of a study of the principal political recommendations made on the subject by the United Nations, the European Union, the G-8, the Islamic Conference Organisation and so forth, plus a list of all those that are considered shared values.

Secondly, the possibility of an international conference or meeting with the media.

Thirdly, drafting of a code of conduct on educational texts or the launching of a large-scale programme of university and student exchanges among the different countries and communities, both Western and Arab and Muslim.

Fourthly, the possible creation of a 'Youth Solidarity Corps'. And lastly, the drafting of a code of good practice in matters of immigration.

The ultimate aim of the exercise, according to the terms of the mandate issued by the United Nations Secretary-General to the High Level Group, is threefold. Firstly, to provide an assessment of the threats posed to peace and international security by political, social and religious forces which foster extremism. Secondly, to identify collective actions to tackle these tendencies. And thirdly, to recommend an action programme designed to promote harmony among societies.

After the close of the Doha meeting, I had the opportunity to report the substance of the first steps actually taken to the EU General Affairs Council. The conclusions of the General Affairs and External Relations Council (GAERC) stress the importance of the work being done by the High Level Group and – in the words of the European conclusions – unreservedly endorse the progress achieved to date.

As the Honourable Member pointed out, the import is the same as a recent letter I received from the US Secretary of State, Mrs. Rice, who stated her intention to support proposals stemming from the Alliance of Civilisations in various different areas.

(...)

(DSS-C, VIII Leg., n. 285, pp. 2–3).

2. Assistance to Developing Countries

Note: See XI.1. General lines and XI.4. Terrorism

a. Latin America

Appearing before the Senate Committee on Ibero-American Affairs to report on the bilateral and multilateral relations of Spain and the Ibero-American countries, the Minister of Foreign Affairs and Cooperation, Mr. Moratinos Cuyaybé, stated:

(...). In the course of the year, (...) elections have been held (...) in numerous Ibero-American countries.

As the Honourable Members can see, there is a swath of elections coming up, which will make 2006 a year of opportunity for Latin America – an opportunity to tackle the major challenges facing the region, paramount among them being the fight against poverty and inequality.

All of us – the Ibero-American Community from a multilateral perspective, and Spain and all the Latin American countries both from a bilateral perspective and as a platform linking the reality of Ibero-America and the European

Union – feel a strong commitment to meeting this challenge. This is a challenge for the foreign policy of our country (...).

(...) While allowing for each country's peculiarities, it is fair to say in a general way that in these elections the societies of Ibero-America have expressed their extreme dissatisfaction at the poor results of the policies pursued up to the present. The economic liberalisation policies known as the 'Washington Consensus' have failed to reduce the scandalous levels of poverty and inequality, which have continued to deepen even against the background of growth in the last few years: 5.9% in 2004 and 4.2% in 2005. According to the United Nations reports, which take the Gini Index into account, Latin America is the most socially unequal region in the world, where the gulf between rich and poor is greatest; the latest figures show that the historical income inequality in Latin America not only persists but has actually increased in the last three decades. The price has been a severe loss of credibility for democratic institutions – institutions which moreover lack the means to tackle ills like corruption, drug trafficking and organised crime, which further erode the power and authority of the State.

In view of this situation, the challenge now should be to try and maintain solid, sustained growth while making perceptible progress in the redistribution of wealth to reduce poverty and inequality, and at the same time to restore the strength, redistributive capacity, stability and credibility of democratic institutions, and thus improve governability.

The debate on how to approach the fight against poverty and inequality – and the dissatisfaction of Latin American societies at the results achieved, as noted – has been very much to the fore in the recent elections. The most immediate consequence of this debate has been the confrontation between the old party systems and the new social movements, among which are movements led by representatives of indigenous peoples hitherto practically excluded from the political stage. One such example is Bolivia and the *Movimiento al Socialismo* of Evo Morales. But the same also applies to Peru, where society is divided between Alan García's APRA and the nationalist movement Humala. And again in Colombia, the traditional parties, the Conservative Party and the Liberal Party, which until very recently took turns in power, have been relegated to second or third place. A similar situation is developing in Ecuador, driven by the indigenous group Pachakutí, as also happened at one time with the *piquetero* movements in Argentina and the *Movimiento de los Sin Tierra* in Brazil.

Then again, the election of new governments has compromised some existing integration processes while prompting new proposals for integration. Two issues in particular have determined the new dynamics in the sphere of regional integration: positions on free trade treaties and energy supply.

On the subject of free trade treaties, a major proportion of the new governments in Latin America see as paramount an endogenous model of regional development (...).

The second issue, energy supply, is closely linked to debates on socio-economic models. One of the many examples of this is the recent tension between

Mexico and Venezuela, which started at the Americas Summit in Mar de Plata and is actually being felt in the emergence of two different energy blocs in Central America and the Caribbean (...).

The Spanish government wishes its Latin American policy to be part of the response to these challenges and to help solve the region's main problems – these problems are potential sources of instability, and moreover they are in a sense two sides of the same coin: poverty and inequality on the one hand and the discredit and weakness of democratic institutions on the other.

This general principle is given concrete form in the following lines of action. In the first place, a clear commitment to democracy and a necessary consequence of that: respect for and recognition of the outcome of democratic processes, as the unique source of legitimacy of the State. In the second place, support for policies that combine the pursuit of sustained growth with the maintenance of macroeconomic balances and environmental sustainability, all with a clearly redistributive intent. In the third place, support for political, technical and financial build-up of the institutions of a democratic State, so that the State can respond to the challenges faced by Latin American societies poverty and inequality, corruption, violence, drug trafficking and organised crime. In the fourth place, promotion of consensus-building, at both national and regional levels. And lastly, support for regional and sub-regional integration and compromise while seeking to dissuade from initiatives that are exclusionary and have the potential to provoke confrontation.

This is the general framework which, as I said, guides and determines Spanish policy in the region. And here I would cite four spheres of intervention by Spanish policy in the region. In the first we now have more instruments than ever to help in the fight against poverty and inequality (...).

In the second, another of the central planks of our cooperation in Latin America is the strengthening of democratic institutions (...).

In the third, we might say we are helping to overcome regional tensions arising as a consequence of continent-wide restructuring. The two most significant experiences in this connection to date have been our good offices between Colombia and Venezuela and between Argentina and Uruguay; in the medium term there is a possibility that similar situations may arise between Chile, Peru or Bolivia, or between Ecuador and Peru. Such missions of good offices may also be necessary at the request of the parties in long-standing conflicts, like that between Colombia and Venezuela.

In the fourth, another of our lines of action is to defend the interests of our enterprises in the region. This means allowing them to operate within a framework of legal security and respect for concluded agreements, but always bearing in mind that the best safeguard for their interests is the prosperity and development of the environment in which they work (...).

Spain undoubtedly possesses considerable capacity to influence events in the region. However, we ought not to act alone but rather seek to act in concert with the various different actors in the region, and also with extra-regional actors who have interests there. We must sustain an intense ongoing dialogue

with all the countries in the region, but above all with the ones who have more influence there and with those who share our approaches, which are, not as a result of coincidence, those that we have or hope to have strategic association agreements with, namely Mexico, Brazil, Argentina and Chile.

This strategic association has made possible, for example, joint participation in the peacekeeping operation in Haiti (...).

The recent irruption of China on Latin American markets is also being examined by Spain and China within the framework of a joint working group set up to identify possible synergisms.

It is also important to stimulate the interest of the European Union in Latin America and help to build up relations between the two regions and strengthen regional integration processes.

(...)

(DSS-C, VIII Leg., n. 346, pp. 2-4).

Appearing before the Senate Committee on Ibero-American Affairs, the Secretary of State for Ibero-America, Mrs. Jiménez García-Herrera, reported as follows:

(...) Ibero-America has always been a priority of Spanish foreign policy, and today it should perhaps be more so than ever (...).

The Government views our relations with Latin America in symmetrical terms, and that means respect, recognition, equality, collaboration, cooperation and shared effort. Our ties with the region, which have historically been very intense and very close, have been strengthened by the emergence in recent times of two new elements which are of considerable importance and cannot be ignored.

Firstly, Spain is now the second largest foreign investor in Latin America. The cumulative net volume of investment comes to around 120 billion euros; this is highly concentrated in public services, the financial sector and telecommunications, although Spanish investors are also present in many other sectors.

Secondly, Spain has also become one of the most important destinations of migratory flows from Latin America. Around a million-and-a-half Latin Americans live and work in Spain. Every year they send remittances to their home countries in such volume that the importance for the economic development of their home countries is enormous, in much the same way as our own economic development was once assisted by Spanish emigrants abroad.

From a brief analysis of what is occurring there, we may derive the following conclusions: Firstly, in political terms the Latin American democracies are beginning to function reasonably well. Indeed, at the end of the present year there will have been more than ten presidential elections, whose results, as the sovereign decision of their peoples, are not open to question (...).

From an economic standpoint, in the last three or four years the region has registered positive economic growth rates, which suggest a trend towards recovery in public accounts (...).

On the basis of this brief analysis, our policy towards Ibero-America will be tailored to meet the following objectives: First, to promote political dialogue for

the purpose of devising processes of mutual comprehension and collaboration in order to deal together with common challenges. Secondly, to promote institutional strengthening in order to consolidate, once and for all, democratic systems in the area. Third, to support the autonomy of the Latin American countries so that they can undertake whatever structural reforms they may determine in the economic sphere, and to encourage more investment from abroad to help speed up the development process. Fourth, to foster social cohesion through cooperation programmes and other initiatives that will guarantee the genuine integration of all segments of the population. And last, to stimulate integration processes in the area, given their undeniable importance for economic development, and also to promote coordinated action by the different Latin American countries.

(...).

(DSS-C, VIII Leg., n. 403, pp. 2-5).

Again, appearing before the Senate Committee on Foreign Affairs and Cooperation, the Secretary of State for Ibero-America, Mrs. Jiménez García-Herrera, concluded thus:

As regards strengthening regional integration processes, we believe that the most useful approach (...) is to encourage the negotiation of association agreements between each country and the European Union. In this connection, we believe that we achieved something significant at the Fourth European Union-Latin American Summit in Vienna last May. Ongoing efforts were culminated, and we succeeded in opening negotiations towards an association agreement between the European Union and the Central American Integration System. In addition, we reiterated the political support of the Member States in view of the need urgently to conclude the agreement currently being negotiated with Mercosur.

(...).

(DSS-C, VIII Leg., n. 395, p. 3).

b. The Mediterranean

Note: See XI.2.c) Africa and 3. Immigration

c. Africa

In reply to a parliamentary question in the Senate on Plan Africa and the part played by the Autonomous Region of the Canary Islands in that plan, the Government reported:

Africa is occupying an ever more prominent place among the basic lines of action of Spanish foreign policy. For its part, the Autonomous Region of the Canary Islands has consolidated its position as a front-rank actor whose role is justified not only by the geographical location of the islands close to the African continent and on the Atlantic route to Latin America, but also by its long-standing contacts and relations of all kinds with that region and the major effort that it has made in terms of collaboration and development assistance for the countries on Africa's Atlantic coast.

The Spanish government has adopted Plan Africa 2006–2008 as a national complement to the European Union's Strategy for Africa which was approved by the European Council in December. Plan Africa takes the form of an ambitious multi-annual package of political, trade, cultural and cooperation measures. The peculiar status of the Canary Islands and their front-line role in relations between Spain and Africa is reflected in the various different aspects of the Plan.

The lines of action through which the Government proposes to accomplish the seven objectives laid down in Plan Africa include reinforcing Spain's political and institutional presence in Africa at all levels, including that of Autonomous Regions which, like the Canary Islands, express particular interest in the Sub-Saharan region.

This entails, among other measures, full support for the placement of scholarship-holders from the Autonomous Regions in our embassies in such areas as development cooperation, cultural cooperation or trade relations, or the possibility of Autonomous Community authorities taking part in the 'Africa Panel, a forum for dialogue, coordination and exchange of information between the Administration and civil society on matters concerning Sub-Saharan Africa and the implementation of Plan Africa.

But the measure with the greatest impact, the one that reflects the importance of the Canary Islands for Spain's overseas endeavours in connection with Sub-Saharan Africa, is the institution in Las Palmas of *Casa África* (Africa House), an instrument of Spanish foreign policy intended to embody the new priority that the Government is awarding to the strengthening of our global and cooperative relations with Sub-Saharan Africa, which includes enhancing the image and projection of the Canary Islands in the region.

(...)

Madrid, 5 July 2006.

(*BOCG-Senado.I*, VIII Leg., n. 531, 16–17).

Replying to a parliamentary question on pressing for bilateral agreements with Sub-Saharan countries to combat organised crime, the Government reported:

In the last few years, European and African countries have witnessed with growing concern the inexorable increase in the activity of criminal networks engaged in illegal trafficking of drugs, arms, persons, etc. not only between Africa and Europe but between African countries. This concern has given rise, among other international initiatives, to the Programme of Action for Africa endorsed by the African countries assembled in Abuja in September 2005. The programme seeks to reduce the negative impact of crime and drugs on the development and the security of African countries, with special emphasis on trafficking in human beings and clandestine immigration.

The Spanish government shares this concern of African governments in view of the central role played by organised crime in the routes linking West and Central Africa with Europe, and it has set in motion a bilateral cooperation strategy to tackle this shared menace. To that end the Spanish government has commenced negotiating Crime Fighting Agreements with those countries

of West and Central Africa of most importance to Spain from the standpoint of the threat of illegal trafficking and clandestine immigration, namely Cape Verde, Mauritania, Senegal, Guinea Bissau, Mali, Ghana and Nigeria. These are the same countries with which Spain has concluded, or is currently negotiating bilaterally for the conclusion of Immigration Agreements.

Crime-Prevention Agreements promote the exchange of information and the rendering of mutual assistance between the Security Forces of Spain and the various African countries in the fight against criminal activity sponsored by organised crime networks including not only clandestine immigration but also terrorism, drug and arms traffic, sexual exploitation and money laundering. In this way Crime-Prevention Agreements supplement the bilateral action that the Spanish government is pursuing with the African countries of most importance for the management of migratory flows into Europe. At the same time, these Agreements enable us to give better formal cover to the cooperation that the Ministry of the Interior is promoting in this part of Africa, which has taken the form, among other things, of accrediting resident Attachés in the capitals of the principal countries.

Madrid, 11 July 2006.

(*BOCG-Senado.I*, VIII Leg., n. 531, 15–16).

d. Asia

Appearing before the Congress Foreign Affairs Committee to report on the Asia-Pacific Action Plan (Plan Asia) which was launched by the President of the Government in December 2005, the Secretary of State for Foreign Affairs, Mr. León Gross, explained:

In the first place the action plan is intended to guarantee our political presence in Asia and enhance our visibility there. To that end we have designed a three-pronged strategy. The first objective is to put in place a schedule of journeys and visits at the highest level (...).

The second is to carry on developing and completing a complex of bilateral political dialogues at various levels (...).

The third, Honourable Members, is to upgrade our embassies and consulates, create new missions and build up the central services.

The action plan is intended to address the new challenges we face in external security. On that subject I would highlight the stress that the Government is placing on the fight against terrorism, organised crime and illegal immigration (...).

And in that connection our action in Afghanistan deserves special mention. This operation constitutes an unprecedented effort by our diplomatic and development cooperation resources, in coordination with and supported by our armed forces, to implement a policy of assistance for reconstruction, for security and for a political transition in the country through a provincial reconstruction team headquartered in the town of Qalai Naw and an advance base at Herat.

(...)

A third objective is to support development for the most underdeveloped countries. In view of the high growth rates current in Asia and the good prospects for development there, the efforts of Spanish cooperation naturally tend towards other continents and areas where hunger, poverty and marginalisation are more structural in character being scant the prospects of progress through internal means. But even so, our cooperation is targeting new Asian countries during this legislature, for example Cambodia, Timor and Bangladesh. Current aid levels will still be maintained for the countries in the area marked out for preferential cooperation, such as Vietnam and the Philippines, and Afghanistan has been promoted to the category of a country meriting special attention in Spain's master cooperation plan.

I would make separate mention of our efforts to assist victims of natural disasters like the ones which occurred last year – the tsunami and the earthquake in Pakistan (...).

A fourth sphere in which we act is in encouraging and supporting Spanish exports and overseas investment (...).

The Action Plan envisages a higher profile in the protection of human rights, one of the fundamental values of Spanish foreign policy in general and our Asian policy in particular. Particular objectives pursued through this policy include initiatives against the death penalty and in favour of its abolition, or failing that the application of moratoria. These actions are being carried on basically within the framework of the European Union, but today I should like to place special emphasis on the efforts of the highest authorities in the State, naturally including the Ministry of Foreign Affairs, while civil society and the Spanish political class as a whole have also been involved, for example acting in favour of the Spanish-Philippine citizen Francisco Larrañaga, with decisive assistance, be it said, from representatives of this Congress of Deputies (...)

(...)

Finally, we shall be paying particular attention to the promotion of policies to remedy the precarious situation of women, prostitution and the abominable traffic in human beings in many areas (...).

I should now like to turn to cultural action as a major facet of our Asian policy. The *Instituto Cervantes* will be opening branches in China (in Beijing next July), Japan, India and Australia (...).

A seventh objective that my Secretary of State is particularly supporting is to bring foreign policy closer to civil society – to the citizens – essentially by way of forums and tribunals (...).

(...)

Finally, I should like to highlight our efforts to contribute to full integration of the countries in the area by offering our own experience, intensifying our commitments to political dialogue and enhancing the strategy we share with our partners in the European Union and in the ASEM framework.

Here let me just dwell for a few moments on the Alliance of Civilisations, now that it has attained the strength and projection that we hoped for. Major Asian countries have lent their full support to this initiative, which is intended

to present a novel approach to our relations with Islam, an issue that most Asian countries, many of them Islamic, understand and accept as a goal. For its part, Spain is co-sponsoring the interconfessional dialogue initiatives that countries like Indonesia or Malaysia are promoting within the ASEM framework.

(...).

(*DSC-C*, VIII Leg., n. 556, pp. 13–16).

3. Immigration

Replying to a parliamentary question in the Senate regarding the economic development agreements it is proposed to conclude in order to control irregular migratory movements to the coasts of the Canary Islands, the Government explained:

The Spanish government has raised its contribution to economic development in Africa in general, and in the Sub-Saharan area in particular, in both a European Union and a national context.

At a Community level, the Government has highlighted the European dimension of the control of external frontiers, and likewise the need to advance in immigration policy, awarding the priority they deserve to the African continent in general and the countries of origin and transit of immigrants in particular. Its proposals were welcomed, especially at the informal meeting of Heads of State and Government at Hampton Court (United Kingdom) on 27 October 2005, and at the European Council meeting at Brussels on 15 and 16 December 2005.

Among the immediate measures thrown up by this line of action are the Conference on Migration and Development in Brussels on 15 and 16 March 2006, and the European Union-Africa Ministerial Conference that was held at Rabat on 10 and 11 July 2006.

On 22 May last, the First Deputy President of the Government of Spain had a meeting with the President of the European Commission and the Commissioners with competences in matters of immigration with a view to analysing the situation created in the Canary Islands by the mass arrival of immigrants from Sub-Saharan Africa, and 15 urgent measures by the European Union were adopted to prosecute the fight against illegal immigration.

In one of these, the Commission and Spain have undertaken to coordinate with all the other EU Member States to have the issue of immigration and migratory flows included – as an essential matter of priority – in the Community agenda for development cooperation policy.

Again in the ambit of the Community, in a speech on 13 June 2006 to the European Parliament's CIVI (Committee on Civil Liberties and Internal Affairs), the First Deputy President of the Government asserted that this ought to be one of the principal engines driving a global immigration policy. In this connection, she mentioned the efforts that Spain has made in the fight against illegal immigration while pointing out that stricter control of frontiers will not be entirely effective without the cooperation of the countries of origin and transit of migratory flows. Immigration policy should not only seek to prevent immigrants from entering but should also seek to cooperate with the countries

of origin so that they do not have to leave. To achieve that, it is essential to pursue development policies in conjunction with control of migratory flows.

In the numerous contacts that the Government has maintained in recent months with almost all of the African countries which are sources or places of transit for immigration to Spain, the idea of adopting Framework Agreements on Migratory Cooperation has been mooted: these are Agreements of a new kind which will go further than the traditional Readmission Agreements, whose efficacy has proven to be very limited, and they will include measures relating to co-development, regulation of orderly immigration flows, or assistance and training for effective control of national frontiers.

These are, then, global agreements which acknowledge the complexity of the migratory phenomenon and the need to collaborate with the countries of origin and destination to enhance their capabilities in the fight against illegal trafficking in persons.

One of the most outstanding aspects of the new policy promoted by the Government in respect of Sub-Saharan Africa, as set out in Plan Africa 2006–2008, is the notable increase – both quantitative and qualitative – in Official Development Assistance to that region, which in 2006 exceeded 400 million euros as compared to 120 million spent in 2003.

Plan Africa 2006–2008 contains an ambitious set of measures designed to contribute to African development.

As to the promotion of cooperation with African countries in regulating migratory flows, the Plan defines three complementary spheres of action:

- * Internally, stricter control of frontiers and speeding up of repatriation procedures, accompanied by measures designed to integrate immigrants and foster an active role for diasporas.

- * Bilaterally, efforts will be redoubled to complete a system of Migratory Cooperation and Readmission Agreements.

- * Multilaterally, initiatives like the European Union-Africa Ministerial Conference on Migration and Development held at Rabat on 10 and 11 July, are being sponsored by Spain in conjunction with Morocco.

Plan Africa is a decisive Spanish contribution to the continent's takeoff, consisting as it does of a wide range of actions and a major political and cooperation-related effort. The Government hopes that this Plan will place Spain among the leading international actors in Africa and the world, and that it will further contribute towards the ordering of migratory flows from the Sub-Saharan countries and to control the flows of illegal immigrants attempting to reach Spanish coasts.

(...)

Madrid, 25 July 2006.

(*BOCG-Senado.I*, VIII Leg., n. 536, pp. 44–45).

Replying to a parliamentary question in the Senate regarding the agreements that the Spanish State has concluded with countries of origin of clandestine immigration, such as Senegal, from where new migratory flows are expected to issue in the direction of the Canary Islands according to the Government, the latter reported:

On the international level the Government is addressing the three broad areas identified in connection with migration: integration, legal immigration and control of irregular immigration.

In the first two cases, i.e. integration and the channelling of immigrant workers, our overseas action focuses essentially on improving consular performance, including expansion of the Consulate network, to facilitate implementation of our migratory policy, and in particular Migratory Flow Agreements. Spain has signed Agreements to channel the demand for foreign labour with Morocco, the Dominican Republic, Colombia, Ecuador, Poland, Bulgaria and Romania and has initiated negotiations with Ukraine and the Republic of Moldova.

This overseas action is particularly important in the sphere of irregular immigration from Africa. In order to deal with this problem, the Spanish government, through the Ministry of Foreign Affairs and Cooperation, the Ministry of Labour and Social Affairs and the Ministry of the Interior, has set in motion a strategy on triple fronts – multilateral, European and bilateral.

- Multilateral: Euro-African Conference on Migration and Development.

The most far-reaching initiative in this sphere is the Euro-African Conference on Migration and Development, which took place on 10 and 11 July on the initiative of the Ministries of Foreign Affairs of Spain and Morocco and included the African countries of most interest to Spain from the standpoint of migration. This is a novel approach to cooperation on the management of migratory flows, in that it is the first time that the countries of origin, transit and destination for immigrants from West and Central Africa have met to set up a partnership that will deal with all aspects of emigration on the basis of shared responsibility and the intimate relationship between migration and development.

The Conference approved an Action Plan with 60 concrete measures, including a commitment to readmission, with effective bilateral and regional systems, and likewise including agreements on readmission and mechanisms for identification of irregular immigrants.

- Europe.

Spain has been one of the chief sponsors of the Global Approach to Migration, which was approved at the last European Council and focuses on the problem of African immigration in the European area. The Global Approach embraces four levels of dialogue and cooperation between the European Union (EU) and African Countries to regulate migratory flows and combat illegal immigration and trafficking in persons:

* Continental, between the EU and the African Union, possibly culminating in a Conference in the course of 2007.

* Regional, the level incorporating dialogue with African organisations like ECOWAS and CEMAC and the Euro-African Conference in Rabat on Migration and Development.

* Bilateral EU-Third Countries, embracing in particular the reactivation of article 13 of the Cotonou Agreement, and hence of the obligation to readmit nationals of signatory countries who are in the territory of another State on an irregular basis.

- Bilateral.

Senegal

We do not yet have a Readmission Agreement with Senegal, and therefore we are raising the intensity and the level of contacts with a view to achieving a more far-reaching dialogue at a bilateral level.

As regards the countries in the Sub-Saharan area, contacts are being maintained at all levels through Spain's diplomatic missions with a view to evaluating the possibilities of concluding Readmission Agreements. The Minister of Foreign Affairs and Cooperation himself toured various countries in Sub-Saharan Africa in early December 2005. The Secretary of State for Foreign Affairs and Ibero-America also travelled on 29 May to 2 June, in this case to Sierra Leone, Guinea Bissau, Senegal, Gambia, Equatorial Guinea and Liberia; and on the occasion of the African Union Summit on 26 to 28 June, the Minister of Foreign Affairs and Cooperation travelled once again to Cape Verde, Mauritania and Gambia."

Madrid, 28 July 2006.

(*BOCG-Senado.I*, VIII Leg., n. 537, p. 112).

Referring to a parliamentary question tabled in the Senate regarding clandestine immigration from Morocco, the Government reported:

Morocco heads the list of countries of origin of immigration to Spain and has a virtual monopoly on immigration from the Maghrib (500,000 Moroccans hold resident's cards as compared to 35,000 Algerians and 7,000 Mauritians).

Spanish-Moroccan cooperation has reached a positive turning point as a consequence of the incidents in Ceuta and Melilla, and at this moment it may be regarded as on the whole satisfactory for Spain, especially as regards the *de facto* 'sealing' of the frontier at Ceuta and Melilla against Sub-Saharan immigrants.

The last meeting of the Standing Spanish-Moroccan Group on Immigration, held at Madrid on 21 April last, reported a positive balance in bilateral cooperation, particularly regarding operational cooperation between the two Ministries of the Interior, which includes joint maritime patrols, readmission of Moroccan nationals and reactivation of the Migratory Flow Agreement, thanks to which the number of Moroccans lawfully employed in seasonal work has practically doubled (2,000 workers in the first quarter of 2006 as compared to over 1,100 in all of 2005). There has also been progress on a number of issues that have been pending for some time:

- Memorandum on Unaccompanied Children: there is an agreement in principle to raise this to the rank of an International Agreement.

- Facilitating of visa issues. The Spanish side has undertaken to examine any proposals that the Moroccan side may make with a view to improving visa issuing procedures for certain categories of applicant (e.g. businessmen and students).

- Agreement for Readmission of Third Country Nationals. The Moroccan side was more forthcoming with regard to the 1992 bilateral agreement than at the previous meeting and agreed to 'examine what guarantees ought to accompany

its implementation'. In any case, however, negotiations are in progress for the conclusion of a Readmission Agreement between Morocco and the European Union.

Madrid, 5 June 2006.

(*BOCG-Senado.I*, VIII Leg., n. 500, pp. 82–83).

Within the framework of cooperation with Mauritania with a view to containing illegal immigration from there, the Government reported thus in reply to a parliamentary question in the Senate:

There are two projects for cooperation with Mauritania:

'Sea Horse' is a project financed by the European Commission, led by Spain through the Ministry of the Interior and managed by the Guardia Civil, with the participation of Morocco, Mauritania, Cape Verde, Senegal, Italy, Germany, Portugal, France and Belgium.

The main objective of the project, which has a horizon of three years, is to foster cooperation between the countries of origin, transit and destination of migratory flows; this means putting in place an effective policy for preventing irregular immigration, including efforts to halt trafficking in human beings – especially by sea and particularly the traffic that affects the Canary Islands – and involving the riparian countries in order to achieve the greatest possible efficacy in the fight against irregular immigration. This project includes training courses in maritime specialities for Mauritanian gendarmes.

The 'Atlantis' Project for its part stresses the creation of joint patrols with Mauritania, entailing the deployment of a patrol boat from the Guardia Civil's Maritime Service, with its crew, in Mauritanian territorial waters to mount joint patrols with the Mauritanian Gendarmerie National.

Finally, I should note that there will be no delay [*sic*] in the mounting of the joint Spanish-Mauritanian maritime surveillance operation, as the necessary personnel and materials must be prepared and the unit must sail for Mauritanian waters.

Madrid, 7 July 2006.

(*BOCG-Senado.I*, VIII Leg., n. 526, p. 14).

4. Terrorism

Note: See XI.1.c) Alliance of Civilisations

Appearing before the Senate in Full Session to reply to a parliamentary question on the adoption by the UN General Assembly of a global counter-terrorism strategy, the Minister of Foreign Affairs and Cooperation, Mr. Moratinos Cuyaybé, reported:

(...) the Government warmly welcomes the adoption of a global counter-terrorism strategy by the UN General Assembly with the consensus of all its members.

Spain has played a leading role; it was our permanent ambassador to the United Nations, Juan Antonio Yáñez-Barnuevo, (...) along with the ambassador of Singapore, who negotiated the wording of the document – a complex and difficult document but one that won the consensus of all the members of

the UN General Assembly. And the fact is that this global strategy was first conceived at Madrid.

Thus, a year after the tragic events of 11 March, the UN Secretary-General, Kofi Annan, announced in Madrid what he called the new UN counter-terrorism strategy: the famous 'four Ds', which, after a long negotiating session ending with the call at the Summit of Heads of State and Government in New York a year ago, became the consensus strategy just three weeks ago.

This is a decisive step for the international community in that the approach defended by Spain from the outset, both in Europe and at the United Nations, seeks to reconcile the fight against terrorism with protection and safeguarding of the Rule of Law and all our fundamental values, promotion of and respect for human rights, and may at the same time prove the best moral and ethical armour for the fight against terrorism.

This global strategy makes explicit reference to the Alliance of Civilisations as one of the essential instruments in the fight against terrorism; at Spain's request, it was made to include the recognition, and hence the positioning, of the international community on the side of the victims of terrorism. At the same time, a very important element contained in the UN's global strategy is a call for incitement to terrorism to be classified as a crime, as the Security Council did in Resolution 1624. In short, there are a whole number of elements that will enable the Government to pursue that strategy in a coordinated and concerted fashion in conjunction with all the Member States of the United Nations to stamp out the plague of terrorism which has so sadly affected us and so affects international security.

(*DSS-P*, VIII Leg., n. 96, p. 5664).

XII. INTERNATIONAL ORGANISATIONS

1. United Nations

a) General Assembly

Appearing before the Senate on 5 October 2006 to report on the UN General Assembly, the Minister of Foreign Affairs stated:

(...) During my stay in New York from 18 to 22 September last, the Spanish delegation followed an extremely busy schedule of bilateral meetings and encounters on the fringes of the General Assembly, which gave us the opportunity to address numerous topics of special interest to this country.

The Spanish delegation had set itself four objectives in this respect. The first was to continue to promote and support reform of the United Nations; the second was to make progress towards a global policy on migration and address the problems of migration as they affect our country; the third was to relaunch the Middle East peace process; and the fourth and last was to maintain and

build upon the bilateral encounters habitual at this forum, especially with the Ibero-American countries.

Within the framework of the General Assembly I would also highlight Spain's participation in two high-level meetings: on 14 and 15 September there was a Dialogue on International Migration and Development, in which the Secretary of State for Immigration Consuelo Rumí took part as Spanish representative, and a meeting to review the implementation of the Action Programme on Less Advanced Countries for the decade 2001–2010, which was attended by the Secretary of State for International Cooperation. The Dialogue on Migration presented a unique opportunity to exchange ideas on the phenomenon of international migration and the challenges that it poses for development. This issue, which is so important to this country and was there addressed for the first time within the ambit of the United Nations, needs to be followed up, and hence the Secretary-General's proposal to set up a permanent forum on this issue earned the majority support of the delegations taking part in the high-level dialogue. I personally had a number of bilateral meetings with countries of priority concern for Spain, including Senegal, Guinea-Conakry, Gabon and Cape Verde (...).

Briefly then, in addition to the schedule I have described, I made use of my stay in New York to hold more than 45 bilateral encounters with my opposite numbers from other countries, and also with the Director-General of the International Labour Organisation and the Secretary-General of the Arab League (...).

(DSS-C, VIII Leg., n. 370, pp. 2–4).

b) Security Council

Appearing before the Congress on 24 October 2006 to report on the UN General Assembly and the situation in the Middle East, the Minister of Foreign Affairs and Cooperation stated:

(...) the government of Guatemala approached the government of Spain seeking the latter's support for its accession to a place on the Security Council as a non-permanent member. At this point I should add for those not aware of the fact, that throughout its history and the history of the United Nations, Guatemala has never been a member of the Security Council. They were the first to approach us and ask for our vote. On ascertaining that Guatemala had never been a non-permanent member of the Security Council, we felt it natural that, like any member of the United Nations, they should have the opportunity, as a Central American country and a friend of Spain, to become a non-permanent member of the Security Council. Much later, the government of Venezuela asked us to support its candidature and (...) we intimated to the Venezuelan authorities that our vote was already committed. As a serious diplomatic service, a serious country and a serious government, we have stood by our word and our undertaking without this raising any difficulty in our relations with either country. We must now wait and see how the vote goes. As you can imagine,

it is always good for Spain to have any Latin American country sitting on the Security Council (...)

(*DSC-Comisiones*, VIII Leg., n. 690, p. 14).

c) *Human Rights Council*

Replying on 16 May 2006 to a parliamentary question regarding the creation of a Human Rights Council to replace the UN Human Rights Commission, the Government stated:

On 15 March last the UN General Assembly passed Resolution A/60/L.48 establishing a Human Rights Council. The Resolution was voted on at the request of the United States, receiving 170 votes in favour, 3 abstentions (Iran, Venezuela and Belarus) and 4 votes against (USA, Israel, Marshall Islands and Palau).

The Human Rights Council will have its own operational mechanisms once it becomes functional next June. In any event it inherits all the mechanisms (resolutions, special procedures, etc.) of the late Human Rights Commission (HRC) (...). The two most novel features of the new Council's attributions are the institution of a 'universal review' mechanism affecting all States alike, which is intended to put to rest the accusations of politicisation and double standards levelled at the HRC. At the same time, the Council is empowered to act in 'human rights emergencies', thus enhancing its capacity to operate and to react. Also, the HRC's law-making function is maintained, an aspect that Spain has consistently supported. We have also successfully preserved the system of special procedures, one of the HRC's most important achievements, which some States sought to eliminate. And again, the participation of NGOs is provided for in satisfactory terms.

Since the United Nations Summit held in New York last September, Spain has continued to take a highly active part in the negotiations to create the Human Rights Council, both in hammering out a common position for the European Union (where we spoke up for aspects addressed in the resolution creating the Council, such as the law-making work of the HRC or strengthening of the part played by NGOs) and in lobbying with other delegations at the United Nations. At New York, where the basic negotiations took place, at Geneva, where the Human Rights Council will have its headquarters, and in other capitals, Spain has defended its own position and that of the European Union. The contacts with Latin American countries and members of the Islamic Conference Organisation within the framework of the Alliance of Civilisations have been especially productive.

While the characteristics of the Human Rights Council are not up to the standards that the Spanish government would have wished, its creation marks not only a step forward in the reform of the United Nations but also an improvement in the universal mechanisms for promotion and protection of human rights, as the principal international human rights NGOs in the world have declared (...).

(*BOCG-Congreso.D*, VIII Leg., n. 412, p. 661).

d) Western Sahara

Appearing before the Senate on 5 October 2006 to report on the UN General Assembly, the Minister of Foreign Affairs stated:

(...) as has been the case ever since I assumed office, Spanish diplomacy has sought, still seeks and will continue to strive to reach a definitive solution to this problem (...) which is fair, is mutually acceptable politically and allows free self-determination of the Saharan people. That said, we have found that we need the parties to come up with a framework within which to promote such a political solution. The efforts that we, and many other countries and leading actors, made behind the scenes at the time of the United Nations vote made it clear to us that a consensus resolution like last year's was not feasible. In these circumstances, in order to retain its capacity to mediate and follow its active commitment to finding a definitive solution, Spain – like the United States, France, the Arab countries, the countries that have an interest in and a serious commitment to solving the problem of Western Sahara, and all the really important countries – preferred to abstain, with a voting pattern that fully reflects Spain's position on the matter. In fact a Security Council resolution will be passed in the next few days (...) with a virtual consensus, which is what Spain seeks (...)

(DSC-Comisiones, VIII Leg., n. 690, p. 14).

On 26 December the Government stated in reply to a parliamentary question:

No Spanish government in recent decades has been so actively and responsibly committed to seeking a solution to the conflict in Western Sahara.

This active commitment means using all our foreign policy resources in pursuit, within the framework of the United Nations (UNO), of a just, lasting and mutually acceptable political solution which provide for the self-determination of the people of Western Sahara.

The essential point of reference is, then, the United Nations (UNO), and in particular the Secretary-General and his Personal Envoy, Ambassador Van Walsum, under the authority of the Security Council (SC). Spain is not a member of the SC but it is able to pursue its responsibilities as part of the Group of Friends of Western Sahara.

(...)

We have also made our position known to the UN Secretary-General, among other occasions at the meeting he had with the President of the Government at the time of the Antiterrorist Summit in Madrid last March. Since then, it has been reiterated on the occasion of all high-level contacts that the Minister of Foreign Affairs has had with the parties, with the UN, with neighbouring States and with the other members of the Group of Friends.

(...)

Following the resignation of the Special Envoy of the United Nations Secretary-General (UNSG) Mr. Baker, Spain had made various representations and also sent written messages to the UNSC stressing the need to revive UN

action, and a start was made in that direction with the appointment of Mr. Van Walsum as Personal Envoy.

And again, in the negotiations leading up to the UNSC resolutions, Spain played an active, constructive role, seeking consensus among the Parties, neighbouring countries and other members of the Group of Friends and the UNSC. I should highlight in this connection the UN Security Council resolutions passed while Spain was a Council member, urging a search for solutions mutually acceptable to all the parties. This applies equally to resolution 1675 of 28 April 2006. Spain's position is respected and valued by all those involved in the process leading up to this resolution, and Spain will continue to uphold it with constructive vigour in the coming months.

Spain is aware that such a process of composition must address the sensibilities of the different parties and examine all options, which must at the very least respect the principle of self-determination espoused by the UN. Nevertheless, defence of that principle does not mean predetermination of the outcome of its application or a predisposition in favour of any particular mode of application. That is essentially a matter for the UN, and within that framework for the parties (...).

(*BOCG-Senado* I, VIII Leg., n. 622, pp. 18–19).

e) Middle East Peace Process

Appearing before the Congress on 24 October 2006 to report on the UN General Assembly and the situation in the Middle East, the Minister of Foreign Affairs and Cooperation stated:

.... At this time one of the most urgent priorities on the international agenda and the agenda of this country is to come up with the means to relaunch the peace process for the Middle East. The Spanish delegation was actively involved in the meetings between the European Union and the United States and between the European Union and the Palestinian Authority headed by President Abu Mazen. On a bilateral level I had the opportunity of conversing with all those actors who are directly implicated or have a special interest in the situation in the region. Of particular interest in this respect were my two conversations with the Syrian Minister of Foreign Affairs (...).

(*DSC-Comisiones*, VIII Leg., n. 690, p. 3).

f) Iran

(...) Regarding Iran, from the outset the Spanish government has supported the negotiations pursued by Europe and the "P5+1" group – permanent members of the Security Council plus Germany – on the nuclear issue. I have therefore made use of our capacity to mediate with Iran to maintain contacts with the Minister of Foreign Affairs and with the Secretary of the Supreme Council of the Iranian Supreme Council for National Security, with a view to persuading the Iranian government of the desirability of reaching a negotiated agreement on this matter. This would benefit the entire region and allow Iran to become

actively involved in the search for a global solution to the problems of the Middle East; for Iran is obviously one of the major actors in the region and it would be most desirable for it to take part in the efforts to arrive at a peaceful settlement of the problems and conflicts afflicting the region.

(*DSC-Comisiones*, VIII Leg., n. 690, p. 4).

g) *United Nations Interim Force in Lebanon (UNIFIL)*

At the Cabinet meeting held on 1 September 2006 it was decided to seek authorisation from the Congress of Deputies for a Spanish military contingent to take part in the interim UN force in Lebanon, it was resolved:

(...) One: to seek authorisation from the Congress of Deputies for a Spanish military contingent numbering up to a maximum of 1100 soldiers to take part in the United Nations Interim Force in Lebanese territory.

Two: Spain's contribution to the Force shall be implemented in two stages:

- Stage one: a battalion of the Naval Infantry shall be dispatched to the area as immediate reinforcements, until 1 November.

- Stage two: the battalion of the Naval Infantry will be relieved by a Spanish-led Multinational Brigade, to which Spain will contribute:

- Command and certain elements of the GHQ and command support.
- A communications and information systems unit.
- A mechanised battalion.
- A national support element.

Three: The maximum military strength allocated to all overseas operations is set at 3000.

Four: The Ministry of Defence is delegated the task of carrying out necessary formalities as regards prior consultation and requests for authorisation.

(*BOCG-Congreso.D*, VIII Leg., n. 427, pp. 1–3).

A few days later, on 7 September, the Defence Minister appeared before Congress for the following purpose:

(...) in compliance with Article 17(1) of the National Defence Act, to seek its approval for the dispatch of Spanish soldiers on the said mission (...).

In the course of his appearance the Defence Minister stated:

(...) our participation in the United Nations force in Lebanon will also serve international law and the goal of keeping the peace, which is after all the ultimate purpose of that law. The Spanish contingent will travel (...) to Lebanon as part of a United Nations force whose purpose is to support the Lebanese government and its armed forces in the task of extending its authority to all of Lebanon, to supervise the cessation of hostilities and to provide adequate conditions for humanitarian activities. Our participation is founded in the criteria of the international community and Spanish society, whose voice and vote are represented here; and the presence and activity of our soldiers are sanctioned by UN Security Council resolution 1701. Be it said that the Lebanese government

itself has been asking the United Nations to augment this multinational presence in the south of the country. Moreover (...) the Lebanese Prime Minister called our President of the Government personally to request Spanish participation in the multinational force and to express his gratitude for our willingness. Thus, there can be no doubt that the requirements laid down by our laws and sanctioned by our political practice for authorisation of the mission have been met.

(...)

I would note (...) the unequivocal position of all the members of the United Nations Security Council, and as such the consensus among the United States, France, the United Kingdom, the Russian Federation and China in passing Resolution 1701, and likewise the agreement of the other ten non-permanent members of the Security Council.

(...)

I should now like to talk about reinforcement of UNIFIL as decreed by Resolution 1701 (...) the organisational option chosen for the military part has not been to set up a newly-formed force but to reinforce the existing UNIFIL and make whatever changes are necessary. All this is set out in Resolution 1701 and in the documents deriving from it. (...) in view of the difficulties encountered by the previous UNIFIL there has been a political debate as to whether the mandate of Resolution 1701 should be interpreted as a UN mission under Chapter VI or Chapter VII of the United Nations Charter. The issue (...) was settled by the introduction of rules of engagement, in fact devised at the United Nations along with the so-called strategic concept or strategic operational framework, and the rules of engagement set out there. (...) the so-called rules of engagement are the guidelines laid down for authorisation of the use of force, whether in self-defence or in pursuit of the goals set by Resolution 1701. As regards this mission in particular, these rules are based on UN Security Council resolutions 425, 426 and 1701. Naturally they include rules prohibiting certain acts, and also rules authorising the use of force in given circumstances if it is deemed necessary (...).

(...) the mission will consist in helping the Lebanese government to enforce its sovereign authority throughout the country and supporting the Lebanese armed forces in peace-keeping and security roles in order to prevent the resurgence of hostilities and thus create conditions in which a lasting peace is possible. Another objective is to facilitate humanitarian aid and the safe return of displaced persons. This is the objective explicitly set out in the United Nations resolution (...). At the same time, we shall be participating (...) in coordination with other European Union countries, and particularly with France and Italy.

(...)

As to the costs (...) part of the expense of deployment and sustainment will be borne by the United Nations. Whatever the exact figure reimbursed (...), a contingent of 1100 soldiers, as described, on a peace-keeping mission of this kind costs about 20 million euros a month; but let me say that given the section to which the financing is charged – 228, entitled Participation by Armed

Forces in peace-keeping operations – this will not affect the rest of the Defence Ministry's activity in the least (...).

(*DSC-P*, VIII Leg., n. 196, pp. 9867–9872).

Appearing before the Congress on 24 October 2006 to report on the UN General Assembly and the situation in the Middle East, the Minister of Foreign Affairs and Cooperation stated:

(...) As to Lebanon, the rapid deployment of forces from Spain, Italy, France and other European countries in compliance with Resolution 1701 is helping (...) to stabilise the situation and is thus reducing the risk of a new outbreak of violence. This military presence is accomplishing a number of goals sanctioned by the letter and the spirit of the resolution I referred to. Firstly (...) to help stabilise the area by monitoring observance of the cease-fire and offering guarantees of security for the population. Secondly, to assist the Lebanese army in the tasks assigned to it and see that there is no movement of armed units or military reprovisioning in the area. If these two objectives can be achieved, the ensuing political context should be more propitious for the resumption of negotiations between the Lebanese and Israeli governments to settle outstanding issues with the help of the United Nations (...)

(*DSC-Comisiones*, VIII Leg., n. 690, p. 4).

h) Terrorism

Appearing before the *Cortes Generales* on 3 October 2006 to report on the Asia-Europe Summit held at Helsinki on 10 and 11 September, the Secretary of State for the European Union stated:

(...) In the President of the Government's speech I should like to highlight the following statements or ideas (...). The pressing need to create a moral, intellectual, legal and police framework that will reinforce the legitimacy and efficacy of the fight against terrorism. In addition, he called for an institutional overhaul of the United Nations and the urgent conclusion of a Global Counter-Terrorism Convention to make multilateralism effective. Following the line traditionally adhered to by Spanish governments, he called for the definition of mechanisms of support for victims and an intensification of bilateral police, intelligence and judicial cooperation, stressing the need always to respect human rights. To achieve greater efficacy in the fight against terrorism, the President of the Government proposed seeking more and better knowledge of the societies that produce it, where certain economic or political circumstances are used by terrorists as a pretext for their actions. Finally, he recalled the United Nations initiative for an alliance of civilisations sponsored by Spain and Turkey, and promised to submit a final report to the United Nations General Assembly next December (...)

(*DSCG-Comisiones Mixtas*, VIII Leg., n. 75, p. 3).

Appearing before the Senate on 5 October 2006 to report on the UN General Assembly, the Minister of Foreign Affairs stated:

(...) Thanks to the this Government's political approach and to the tremendous ability, experience and diplomatic savoir-faire of our permanent representative Mr. Yañez-Barnuevo, we have achieved – the same as at the Barcelona summit – something that seemed impossible, namely a code of conduct for the fight against terrorism. This is important, for it was very difficult to accommodate the positions of the Arab and Muslim countries, and the same goes for the approval of the United Nations global anti-terrorism strategy, which bears a strong Spanish imprint. For example, protection of the victims of terrorism is a very Spanish concept, rooted regrettably in the fact that we have long suffered the plague of terrorism, but it was not, understandably enough, included in the various proposals put forward when defining that strategy (...).

(*DSS-C*, VIII Leg., n. 370, p. 18).

2. North Atlantic Treaty Organisation

Replying on 18 September 2006 to a parliamentary question on the risks to the Spanish Air Force of the airspace surveillance mission entrusted it by NATO in the Baltic countries, the Government stated:

The mission entrusted to the Spanish contingent is to provide Quick Reaction Alert (QRA) air policing in the Baltic countries between 1 August and 30 November 2006 according to NATO's Integrated Air Defence System plans.

Any eventuality that may arise will be dealt with according to the Operational Plans as approved and the Rules of Engagement in force at any time. In any event Spanish units will not undertake any actions entailing the use of force in a 'Renegade' operation.

The force has been deployed in a NATO and EU member country where the situation is normal and there are no significant conflicts of any kind.

(*BOCG-Congreso.D*, VIII Leg., n. 445, p. 173).

Replying on 16 October 2006 to parliamentary questions on the airspace surveillance mission entrusted to the Spanish Air Force by NATO in the Baltic countries, the Government stated:

(...) The four Mirage F-1 aircraft are operational.

(...)

The contingent consists of 8 pilots plus a specifically-qualified Contingent Leader, 7 air traffic controllers and 37 mechanics (...).

(*BOCG-Congreso.D*, VIII Leg., n. 458, p. 291).

XIII. EUROPEAN UNION

1. Enlargement

Appearing on 14 June 2006 to report to the *Cortes Generales* on the agenda for the European Council on 15 and 16 June, the Secretary of State for the European Union stated:

(...) it may well be the only real topic of debate where there is divergence among the Member States' positions. This debate will be confined solely to the level of Heads of State and Government (...) France has requested the introduction of this debate over what is being referred to as the European Union's capacity to absorb new Members, reflecting a level of fatigue among citizens, overwhelmed by the enlargements that have followed one upon the other, and the need to consolidate the European project.

There can be no doubting that Spain shares this principle, this 'important consideration' as it was referred to in the Copenhagen European Council of 1993, given that it was we who requested that in addition to the three Copenhagen criteria for the accession of new Member States, all enlargements also be guided by this general principle, i.e. that enlargement ought to be accompanied by intensification (...).

Spain will be taking an intermediate line, but one close to France given that we share that concern. We believe it is a criterion for those of us already in – it makes no sense to enlarge the European Union to take in new Member States if we do not improve the way we function and we do not consolidate the European project (...).

It was Spain that introduced the notion of capacity to absorb new Members at the Copenhagen European Council as a general principle – as an 'important consideration' in the words of the Copenhagen European Council – in matters of enlargement. But there are two specific points where we part from France. France wants this to be a new criterion, to be added to the three Copenhagen criteria. Spain does not agree with this; we do not want to create a new criterion for new Member States, thus discriminating against them with respect to the criteria applied to enlargements hitherto (...).

Another additional idea with which we disagree is that of defining Europe's frontiers now. That is not a good thing. Our opinion on Croatia – or on Turkey – is that we support the negotiations currently in progress; in the case of Turkey, Spain supports accession but above all values the process of negotiation, which may be very prolonged, in that it forces Turkey to look to Europe, to introduce constitutional changes in its legislation which will carry it in the right direction. If we now close the door on Turkey because we decide that Europe's frontier goes as far as Turkey or goes as far as Ukraine, and that the Ukraine is not to be part of the future Europe – or Moldova, or Belarus, or Turkey – these countries will start looking to Moscow, or to Iran or Iraq, and that cannot be good for European interests. We therefore need to have clear criteria. We need to pursue negotiations; obviously there is a need for consolidation and a period of calm at this time, for there has been an enlargement on an absolutely unprecedented scale, and one that has not been accompanied by a desire for Europeanness – as in the cases of Spain and Portugal, both countries genuinely committed to integration – and we are seeing that now (...).

(DSCG-Comisiones mixtas, VIII Leg., n. 70, pp. 5 and 18).

2. Subsidiarity

a) *Early warning system*

In an appearance on 3 October 2006 within the framework of the working group set up by the joint committee for the European Union to examine the implementation by the *Cortes Generales* of the early warning system envisaged in the Subsidiarity Protocol accompanying the Treaty establishing a Constitution for Europe, the Secretary of State for the European Union stated:

(...) last May the European Commission presented a communication in which it proposed to send its legislative proposals, its communications and its consultative documents to national parliaments (...).

It is the European Commission's intention that this new mechanism for participation and consultation of national parliaments operate in the following ways: information is to be transmitted to the parliaments in an informal way, by electronic mail; this medium is to be used for all documents except, naturally, those that are classified. Documents will be sent in the official languages of the EU requested by the respective national parliaments as soon as the versions in these languages become available. There is no request for specific reactions from national parliaments. Whatever observations may be received will be examined by the Commission in order to draw up an appropriate reply. The time allowed for submission of observations is three months, and replies will be sent in the language of the observations. The Commission will send copies of its replies to the European Parliament and other Community institutions, and also the Member States.

The Commission intends to assess the functioning of this mechanism over a period of six months and has announced that those Parliaments most active in this connection will be invited to take part in the assessment. And let me say in advance that once the two Houses, and particularly this Joint Committee, have agreed on how they wish to take part in the exercise, the Government – and most certainly the Secretary of State for the European Union – are firmly resolved to cooperate fully with the Cortes, for instance by supplying the two Houses with any necessary technical advice for their assessment of the Commission's proposals.

As to how the early warning system might work if the provisions in the protocol appended to the Treaty on a Constitution are applied, I shall explain only briefly since I know this is something that will not enter into force for years yet.

(...) The early warning mechanism means that each legislative house is empowered to issue a reasoned opinion setting forth the reasons for which it believes that the project does not comply with the subsidiarity principle. From an organisational standpoint, of the various options that may be considered, the Government would like the early warning mechanism to operate in the first instance through this Joint Committee for the European Union, but obviously each House will be entitled to advocate its Full Session. And indeed, when

the time comes for the early warning mechanism to come into operation, the Houses will be required to provide a rapid and specialised response. Rapidity is a requirement of Article 6 of Protocol number 2, which limits the time allowed to six weeks as from the date of communication of a European legislative bill – undoubtedly a very short time in parliamentary terms.

Regarding the procedure and terms, the Government may make a number of suggestions, but it is up to the *Cortes Generales* and this Joint Committee to lay down the procedures. One possibility is that a minimum of two parliamentary groups or a fifth of the members of the Joint Committee be required to propose a debate and a vote on a reasoned opinion, or that the proposal include such a reasoned opinion in draft form. Advocacy of the Full Session of either House should come either from the Joint Committee itself or from the House concerned, and its regulation should be based on the rules currently prevailing in legislative procedure.

Once a reasoned opinion is approved, the Speaker of the House concerned should remit the resolution to the presidents of the European Parliament, the council and the Commission. Although Protocol number 2 has nothing to say on the subject, it would be advisable for the Speaker of the House also to remit this opinion to the Government by way of the Secretary of State for Relations with the Cortes.

I shall say no more on this point other than to refer to the regional legislative assemblies (...). As the Honourable Members know, Article 6 of the Protocol to the Constitutional Treaty allows for the participation of regional parliaments on such terms as each national parliament shall decide (...). Regional parliaments may be consulted, but in no event may they be empowered to issue a reasoned opinion, and much less to remit one to the Presidents of the Community institutions concerned. In short, the early warning mechanism operates exclusively through the national parliaments of the Member States.

Having said that, the Government believes that regional legislative assemblies ought to have a part in the early warning mechanism in terms relatively similar to those laid down by Protocol number 2 for national parliaments. It has been suggested that the intervention of regional legislative assemblies could be regulated to allow remittal of Community legislative bills to regional legislative assemblies. One of the most problematical aspects of participation by regional parliaments is to set bounds on the Community or Union acts on which regional assemblies would be invited to opine. There are several alternative possibilities: to limit consultation to certain articles of the Treaty establishing the European Community, to those articles bearing on legislative powers, or else all regulatory proposals. In view of the difficulties that individualised rating of each initiative would raise, the Government believes it would be preferable to remit all initiatives to the regional assemblies. The procedure thereafter might be as follows: once the initiatives have been remitted, the regional assemblies would have three weeks in which to issue a reasoned opinion on whether these conform to the Community's subsidiarity principle. The Joint Committee for the European Union would then meet to debate and vote on the regional

proposals as long as one-third of the regional legislative assemblies – and at least six of them – denounced infringement of the subsidiarity principle. If this Joint Committee should vote yes to the proposal of the regional assemblies, the reasoned opinion provided for in the general rules would be issued in the terms stated above. All this would of course be without prejudice to the power of either House to advocate the hearing of and decision on the proposal by their Full Session (...)

(*DSCG-Comisiones Mixtas*, VIII Leg., n. 75, pp. 6–7).

3. Structural Funds

Appearing on 14 June 2006 to report to the *Cortes Generales* on the agenda for the European Council on 15 and 16 June, the Secretary of State for the European Union stated:

(...) the Commission has presented the official figures for structural funds, according to which Spain will receive the second largest amount of all Member States, over 31 billion euros – well ahead of Italy, for example, or of countries with the kind of necessities of Romania or Bulgaria, the new Member States – when Spain today enjoys the same income level as Italy did at Berlin in 1999; and then Italy was already a net contributor, contributing 19 billion euros in the period 2000–2006, whereas Spain will continue to be a net beneficiary – in other words we shall receive more than we put in, at least until 2014 (...).

It is true that there is to be a gradual reduction of funds, but I cannot yet give you the details of regional distribution among the various Autonomous Communities in respect of two funds which this Government has secured, namely the Cohesion Fund – which no-one believed possible given that Spain acknowledged the statistical effect on the regions which benefited from the enlargement, or again in the cases of phasing-in of the Canary Islands, Castilla y León and the Valencian Region since they have grown and already exceed 75% of the average Community income – which amounts to 3.25 billion euros for that period and covers all of Spain; and the Technology Fund, which is new – we are the only Member State that has received this fund. However, the Government has not yet finally decided on its distribution by regions; we have until the end of the year to do that, and when the time comes it will be made public in the appropriate manner (...).

(*DSCG-Comisiones Mixtas*, VIII Leg., n. 70, pp. 14–15).

Replying on 6 September of the same year to a parliamentary question on forecast reductions of income from EU cohesion funds within the financial prospects for 2007–2013, the Government noted:

As a result of the Agreement on Financial Prospects for the period 2007–2013, reached at the European Council of 16 and 17 December 2005, the amounts of ERDF and ESF funds we expect to receive for the regions may be broken down in terms of commitments as follows, calculating according to the method laid down in that Agreement:

– Regions for Convergence (Andalucía, Castilla-La Mancha, Extremadura and Galicia): 18.682 billion euros. This amount includes funds from ERDF R&D&I totalling 1.397 billion euros.

– Regions for Phasing Out (Asturias, Murcia, Ceuta and Melilla): 1.431 billion euros. This amount includes funds from ERDF R&D&I totalling 100 million euros and the additional specific allocation of 50 million euros for Ceuta and Melilla which was secured in the course of the negotiation.

– Regions for Phasing In (Castilla y León, Valencian Region, Canary Islands): 4.482 billion euros. This amount includes funds from ERDF R&D&I totalling 299 million euros; OR funds totalling 435 million euros allocated to the Canary Islands as an outermost region, plus an additional 100 million secured for the Canary Islands in the course of the negotiation.

For those regions losing most, the Government has promised a ‘safety net’ of 33% in the case of Phase-Out regions and 50% in the case of Phase-In, so that they will receive an amount equal to the ERDF and ESF funds that they would have received had there been no enlargement of the EU.

– Regions for Regional Competitiveness and Employment (Cantabria, Aragon, Baleares, Catalonia, Madrid, Navarre, Basque Country, La Rioja): 3.126 billion euros. This amount includes funds from ERDF R&D&I totalling 200 million euros.

The amount allocated to Spain under Territorial Cooperation for cross-border and transnational cooperation programmes totals 479 million euros.

Also, we have secured a provisional outcome for the Cohesion Fund, with an allocation of 3.25 billion euros; and indeed Spain is the only EU country to continue to receive Cohesion Funds despite now having reached 90% of average European per capita income.

All in all, it is envisaged that we shall receive 31.45 billion euros in funds for economic and social cohesion for the whole national territory.

(*BOCG-Senado* I, VIII Leg., n. 547, p. 165).

4. Common Space on Freedom, Security and Justice

a) Control of external borders

Replying on 5 January 2006 to a parliamentary question on the composition and functions of the future European Border Intervention Force, the Government explained:

In the official conclusions adopted by the Interior Ministers of France, Germany, Italy, the United Kingdom and Spain at the extraordinary meeting on immigration held at Paris on 12 May, the Interior Ministers of the countries represented agreed to upgrade the European Borders Agency, creating a new European Union organ to serve as an operational tool for coordinating and intensifying the joint operations conducted on the Union’s external borders. In the context of this Agency, the Ministers declared that they were examining the possibility of a Border Intervention Police Force so that in times of crisis

specialised resources previously identified by each country can be deployed on the external European border.

Therefore, once the first stage of the structuring of the European Borders Agency is complete and it becomes operational, the five countries will press, within the ambit of the European Union and through the competent body – the Agency – the possibility *inter alia* of the Member States identifying their resources and cooperating in the event of certain crisis situations to reinforce the borders or carry out such joint operations as may be deemed appropriate.

(*BOCG-Senado I*, VIII Leg., n. 393, p. 4).

Appearing on 14 June 2006 to report to the *Cortes Generales* on the agenda for the European Council on 15 and 16 June, the Secretary of State for the European Union stated:

(...) If you read the conclusions of this European Council – paragraph eight – you will see that they are satisfactory for Spain (...) the European Council acknowledges that for the first time operational cooperation between Member States on matters of external borders is to be put into practice. Next Tuesday there will be a meeting in Madrid with the new Member States that will be contributing human and material resources to this machinery, which is to be deployed south of the Canary Islands and is a token of solidarity among the Member States (...).

And here again I should like to stress the importance of these conclusions. They will include express mention of the Canary Islands, in response to an initiative from the Spanish government. In fact the draft conclusions were basically drawn up in Spain. Spain will continue to press in the European Union for a stronger response to this complex global problem, so that the citizens can see that Europe brings added value to our country in this connection as well. We must bear in mind, however, that the principal consequences are in the hands of the Member States. Brussels has little in the way of human, material or financial resources. The new funds approved in the Financial Prospects will come into effect in January and will be especially important in this field (...).

And some final remarks on immigration and Africa, in reply to concrete questions on urgent measures. Next Tuesday the Guardia Civil will be directing a meeting at the Ministry of the Interior in Madrid to set up this first operation. A concrete operation had never before been set up by Member States on the external borders of the European Union, and specifically on the southern border of the Canary Islands.

We have commitments, from Finland to supply an aircraft; from Italy to supply a patrol boat; from France to supply two vessels from the air-naval base at Dakar; from the United Kingdom, two patrol boats; from Portugal, two patrol boats, one at Cape Verde and the other at the Canary Islands; from Germany, ten policemen and a patrol boat (...), and from other Member States. And then we shall see, for Tuesday is when the capabilities conference – to use the military term – is to be held, and the operation will have to be organised, under the direction of the Guardia Civil and the European Borders Agency,

which is also new to this; it is the first time that FRONTEX will command a deployment of this kind. FRONTEX is an agency with very scant resources – 62 personnel including orderlies and drivers – and we need to reinforce this novel agency (...).

(*DSCG-Comisiones Mixtas*, VIII Leg., n. 70, pp. 3–4 and 18–19).

Appearing on 20 December 2006 to report on the Brussels European Council held on 14 and 15 December, the President of the Government stated:

(...) The Council has also approved a number of measures to improve control of external borders, and it acknowledges – at Spain's behest – the special characteristics of the southern maritime border. Many of these proposals (...) will start to be implemented in the first half of 2007. It has been decided to immediately reinforce the European Borders Agency, FRONTEX, with more human and financial resources. It will be responsible for coordinating the creation of rapid intervention units, joint patrols and a register of national capabilities available for emergency situations. It is also planned to set up an integrated system for surveillance of the southern maritime border, and we shall be examining the possibilities of organising a system for the exchange of information on border entry and exit (...).

(*DSC-P*, VIII Leg., n. 224, p. 11347).

b) Immigration

Appearing on 14 June 2006 to report to the *Cortes Generales* on the agenda for the European Council on 15 and 16 June, the Secretary of State for the European Union stated:

(...) for Spain, the most important point in these conclusions is the one dealing with immigration. (...) the President of the Government raised the issue last year at the Hampton Court European Council; he proposed an initiative which was supported by President Chirac (...), and which was given concrete form at the December European Council, with a 'global' approach to migrations focusing on the Mediterranean and Africa.

Spain's position is very simple: we are Europe's southernmost border; we lie on the border with the largest income gap in the world – the border between Africa and Europe, and the border between Spain and Morocco – and this is not solely a Spanish problem but is without doubt a European problem too. Yesterday the Deputy President of the Government and I visited the European Parliament at Strasbourg, which coincides with Spain on the need to raise awareness among the Member States and Community institutions on an issue which we believe concerns all of Europe.

In the same vein, last Friday, at Spain's behest the President of the Government (...) sent a letter, also signed by France's President Chirac and by the Portuguese Prime Minister, requesting that a second European Union-Africa Summit be convened in Lisbon next year under the Portuguese presidency. Paradoxically enough, the European Union has annual summits with the United

States, with Russia, with China, with India, with the Ukraine and with Japan, and every two years with Latin America and with Asia; there was one this year with Latin America, at Vienna, and there will be another with the Asian countries under the Finnish presidency. And yet there has been no summit with Africa, the continent closest to us, since the year 2000. The only one held to date was the Cairo Summit under the Portuguese presidency. But now Spain has launched an initiative, to be confirmed at the European Council tomorrow and the day after, for a second summit to take place between Europe and Africa, two continents with many things to discuss, and not only immigration (...)

The European Council will also be addressing other issues raised by Spain: initiation of a dialogue under Article 13 of the Cotonou Agreement with the African countries which are sources of immigration. There have already been two sets of formal negotiations, with Senegal and with Mauritania, but the Commission has undertaken – this was during the visit paid by the Deputy President of the Government to Commission President Durao Barroso – to initiate a dialogue with the ten top priority countries of Sub-Saharan Africa before next August. Also mentioned are the proposal to design an electronic surveillance system for the whole Mediterranean and the Canary Islands, and the Rabat conference – a Spanish-Moroccan initiative scheduled to take place on 10 and 11 July, bringing together the countries of origin, transit and destination in order jointly to address the phenomenon of migration in an integrated manner (...).

We need to work for African development as the only way of dealing for the medium and long terms with a phenomenon that demands responses to illegal immigration and coordination of measures to combat it. The Commission will be presenting a most interesting communication on 28 June, referred to by the European Council in the conclusions I am now reporting to you.

(...)

At this moment the European Union only has three repatriation agreements in place, with Albania, Sri Lanka and Russia. There is also one with Macao and Hong Kong in exchange for facilitation of visa procedures; and negotiations for a series of agreements have been going on for four years now with Morocco and for two with Algeria. In the case of the ACP countries, the countries of origin in the Cotonou Agreements, negotiations with Mauritania and Senegal commenced three weeks ago under pressure from Spain.

Spain continues to return illegal immigrants, a policy which must be pursued with discretion. I believe it is counter-productive to publicise the departure of aeroplanes or the return of illegal immigrants to their countries of origin, as has occurred on occasions. Those countries in fact want quite the opposite – that there be no publicity of any kind. Last year Spain returned more than 200,000 illegal immigrants, and this year so far the figure exceeds 31,000. These are the figures furnished yesterday by the Deputy President of the Government in Strasbourg; I quote them from her speech there.

Concerning regularisation, (...) in 2002 the previous Government regularised more than 150,000 illegal immigrants; in 2003, over 200,000, and practically all the Member States of the European Union have conducted processes of

this kind – and the new government of Italy, the new government of Belgium and the US government are now about to do the same. Let me say for your information that we have 25 million legal immigrants in Europe, who stimulate economic activity and create employment. Spain last year registered 3.5 per cent economic growth, and half of the new jobs were created thanks to immigration. Without immigration we would have registered half the growth and created half the number of jobs (...). And we have between 7 and 12 million illegal immigrants – there are no entirely reliable figures in this field – a very similar number to the United States (...).

In matters of immigration and development there is a clear need to advance (...) Unfortunately, Algeria has not so far confirmed its intention to take part in the Euro-African Conference at Rabat. The Spanish government is taking all kinds of steps, including the President of the Government's initiative, to hold a European Union-Africa summit along those lines. Algeria has made it a condition that before a regional conference like the one at Rabat is convened, there should be a grand Europe-Africa conference to discuss emigration. I hope that this Spanish initiative, which is also supported by France and Portugal and which the European Council will be confirming the day after tomorrow, will help persuade Algeria to reconsider its position, for Algeria is a country of destination for immigrants, a country of transit and also a country of origin, and that is a subject that demands the cooperation of all (...).

(DSCG-Comisiones Mixtas, VIII Leg., n. 70, pp. 3–4 and 19–20).

Appearing on 21 June 2006 before the Congress in full session to report on the European Council of 15 and 16 June, the President of the Government stated:

(...) in only eight months, since the first crisis in Ceuta and Melilla, Spain has succeeded in placing immigration at the centre of the European agenda. It was instrumental in achieving the approval, for the first time, of an integrated and global immigration policy in December 2005. It has managed to create a special sensitivity in the Commission and other European institutions. It has succeeded in making this a recurrent topic at all European Councils and, as Prime Minister Vahanen confirmed, the forthcoming Finnish Presidency will be awarding it top priority.

When Spain talks about immigration in Europe, it is not merely raising a serious problem on our own borders but is calling attention to something that constitutes a challenge to all of Europe, now and in the future. This was acknowledged by the European Council when it decided that a European immigration policy must be devised as a matter of urgency. In particular, the Council very much welcomed the measures adopted by the Commission, the European Borders Agency and some Member States in view of the scale of arrivals of illegal immigrants in the Canary Islands. It asked for redoubled efforts to establish operational maritime cooperation with a view to devising appropriate surveillance measures and creating rapid border intervention teams. Europe will be increasingly involving itself in the management of migratory crises. Admittedly we do not as yet have all the necessary tools, and those we

do have are still very much experimental, but there is a clear political resolve, which we more than anyone are keen to enhance and consolidate.

The Council not only expressed its solidarity with and commitment to those Member States which, like Spain, suffer directly from these situations, but it also adopted our proposals to address the causes and foster cooperation with countries of transit and origin of immigrants. It thus lent its support to the Euro-African ministerial conference on emigration and development which is to be held at Rabat on 10 and 11 July next. It proposed a resumption of the global dialogue on migration within the ambit of relations between the European Union and the African, Caribbean and Pacific countries. It recalled the importance of the action plan agreed on in the Barcelona process and the commitment to organising a Euromed ministerial meeting on migration. Spain expressed its gratitude for the cooperation in implementing maritime surveillance around the Canary Islands. And we further asked that the operational capability of the newly-created European Borders Agency be enhanced as soon as possible (...)

I believe we can agree on two evident facts in this connection. The first is that the resources presently available to the European Union for immigration-related issues in the various funds envisaged at Spain's behest, which are reflected in the financial prospects, constitute a 117% increase on the funds that were available for immigration up to this time, either under the heading of funds for external borders or of the fund for refugees and integration, the return fund, the neighbourhood instrument or the development fund (...).

The second (...) is that for the first time we are going to see Civil Servants of the European Commission and of European countries in this country working with the Government on immigration-related tasks, of both border control and repatriation; and for the first time in this country we are going to see vessels sent by various European Union countries to help control our border and to provide surveillance and monitoring of the sea-coast of Sub-Saharan Africa (...).

(*DSC-P*, VIII Leg., n. 186, pp. 9313 and 9340–9341).

Appearing before the Congress on 24 October 2006 to report on the UN General Assembly and the situation in the Middle East, the Minister of Foreign Affairs and Cooperation stated:

(...) You mention what the presentation of Plan Africa has meant for Spanish diplomacy and for the interests of Spanish society – and I thank you for that, because it is true that Africa today merits priority treatment and priority interest. Given the daily drama we are experiencing with the arrival of Sub-Saharan immigrants, in Spain we feel it as something more direct and immediate, but the truth is that the European Union and the international community in general today ought to be treating the African continent as one of the essential priorities of European external policy. Something has been done – we did it during the European Council last December when a European Union plan and strategy for Africa was approved; we are mobilising all the commissioners, and in particular the commissioner for development Louis Michel, whom we are pressing to take a number of steps in connection with some of the essential

countries by which Spain feels most affected. There certainly is a need for a collective effort by the European Union, which is why it is so important that the European Union-Africa summit be held during the Portuguese presidency. We are searching for a means to avoid Britain's failure to respond regarding the situation in Zimbabwe preventing this second summit from being held (...). Moreover, we are trying to pass on that concern, which I personally felt more intensely on returning from my latest visit to Sub-Saharan Africa, in particular on my tour of Gambia, Guinea Conakry and Senegal. The problem is of extraordinary strategic importance (...) and is well worth an extra effort in the fight against poverty, and in the attempt to reform the institutional policies of various African countries and help them introduce all the social, political, economic and financial measures they need to confront the tremendous instability threatening the entire African continent. We need to use all the instruments available to the Spanish government through its development cooperation policy, but we must also make use of any synergisms that may present themselves in connection with other European Union financial instruments (...).

(DSC-Comisiones, VIII Leg., n. 690, p. 14).

Appearing on 20 December 2006 to report on the Brussels European Council held on 14 and 15 December, the President of the Government stated:

(...) The decision that the Council has now taken will ensure that our immigration policy is operational as from now, 2007, particularly in emergency situations. At the same time it is drawing up a deeper and more far-reaching strategy for the long term. The approach that the Council has adopted towards this policy addresses every aspect, from understanding the causes underlying migratory flows and the need to do something about them, to border control measures and the fight against illegal immigration.

We have succeeded in persuading our partners that the most effective way to combat illegal immigration is to provide channels for legal immigration. It is essential that we acquire the means to provide better information on legal procedures, speed these up and offer useful information about the European labour market. With these measures in place, it will be much easier to persuade our African interlocutors that it is in their own interest to cooperate actively in halting clandestine immigration (...).

(...) For the next six years Europe will have 4 billion euros at its disposal for immigration policies; 1.8 billion for management of external borders; 825 million for integration of immigrants; 676 million to finance returns; and 628 million for the refugee fund. These funds will be shared among the Member States in accordance with their responsibilities in the management of immigration. Spain will be one of the chief recipients – for example it will receive up to 35% of the border control fund, the largest of all of them, which, as I said, come to a total of 1.8 billion euros. In addition, immigration will receive approximately 3% of the funds from the new neighbourhood policy financial instrument and the European Development Fund. Then, in 2007 the Commission's Migration and Development pilot programme will be allocated a budget of 40

million euros, which will be used to round off migration management capacity in countries of origin and transit. And again, as Spain had requested, the budget of the European Borders Agency will be raised from 22 to 34 million euros in 2007, and it will see its personnel increased to one hundred functionaries in the coming year (...)

(*DSC-P*, VIII Leg., n. 224, p. 11347).

In response to a parliamentary question 30 October 2006 on the extent of the European Union's involvement following the rescue of a group of irregular immigrants by the Spanish vessel "Francisco y Catalina", the Government replied:

Upon learning of the situation of the Spanish fishing boat (...) the Government took a number of steps, in conjunction with the European Commission, to resolve that situation.

(...)

The Spanish government, with the mediation of the European Commission, negotiated with several States and with the United Nations High Commission for Refugees (UNHCR) to find a means of taking in the 51 immigrants (...)

Therefore, the Government acted (...) at all times in coordination with the European Commission.

(*BOCG-Senado I*, VII Leg., n. 584, p. 155).

c) *Regional Protection Programmes*

In response to a question tabled in the Senate on 26 January 2006, the Government replied as follows:

(...) 'Regional Protection Programmes' are to be financed; the Cabinet has agreed that two pilot programmes are to be conducted, one in the Great Lakes area of Africa and the other in the Newly Independent States. The specific locations chosen are Tanzania and Ukraine.

As provided in the Hague Programme, these programmes will be drawn up in close cooperation with third countries and the United Nations Commission for Refugees. Their goal is to build up the protective capacity of the regions concerned and improve the protection of refugees through 'lasting solutions', meaning repatriation, local integration and resettlement in a third country.

The programmes will include projects designed to improve reception conditions for refugees, projects that will benefit the host community, training projects for personnel dealing with refugees and immigrants, and projects designed to establish an effective procedure for determining refugee status and a registration system.

From the outset Spain has supported the introduction of these programmes and the implementation of a programme in North Africa in the light of the experience acquired in the pilot programmes.

Spain has always advocated respect for migrants' rights, both inside and outside European Union territory. The protection of these rights, and particularly the protection of women, is explicitly mentioned, at the proposal of Spain, in

the document that will provide the basis for action by the European Union in matters of migration, that is the Council Conclusions on Migration and External Relations, dated 21 November 2005.

(*BOCG-Senado I*, VIII Leg., n. 412, p. 17).

d) Eurojust

Speaking on 16 February 2006 in the course of the debate on the Bill to regulate the status of national member of Eurojust and relations with this organ of the European Union, the Minister of Justice stated:

(...) the nineteen-nineties saw (...) a spectacular display of this ambition to cooperate – with all the instruments of security and justice, with the security forces and corps of the Member States, and with the Member States' judicial powers and systems for the prosecution of crime – in the construction of a common area characterised by respect for fundamental rights, a guarantee that infringements of Community law will be prosecuted, the pursuit of security, and in this last field the fight against crime, against all forms of criminality, and particularly against all the forms of criminality of our time – and here I refer to transnational crime – which also require supra-national instruments if they are to be effectively combated.

And it is in this context that one must view Decision 2002/187, adopted by the Council of Ministers of Justice and Interior on 28 February 2002 (...), setting up Eurojust with a view to reinforcing the fight against serious crime. This is a decisive step in the construction of an area of Justice, Freedom and Security. Eurojust, then, is conceived as a specific organ of the European Union, having its own legal personality and financed from the budget of the European Union, with a view to facilitating the coordination of national prosecution services and judicial systems in support of criminal investigations into all forms of organised crime, and in particular those of most concern to us – drug trafficking, trafficking in persons, corruption, laundering of money from illegal dealings – and of course our own absolute priority, the number one concern for Spanish domestic and foreign policy, namely the fight against terrorism in all its forms. To that end it has been decided that Eurojust will cooperate with Europol (...) and be integrated in the European judicial network in order to simplify the processing of those key instruments of judicial cooperation – commissions rogatory and Euro-orders – that have revolutionised traditional extradition procedures.

Hence, the purpose of this legislative initiative (...) is to connect up all the necessary provisions to enable Eurojust to act, particularly in connection with the status of Spanish member of Eurojust as a European Union body and the relations of that national member and Eurojust with the Spanish authorities in charge of prosecuting crime. The legislative initiative also includes the linking of this body to the European judicial network and introduces into our positive law a figure that has not only been tried out but is in fact functioning satisfactorily in bilateral relations with distinguished allies of Spain in the strategy for combating crime, which we have decided to call 'liaison magistrates'. (...).

One example is the inclusion of the director of the Spanish Data Protection Agency as a common control authority in Eurojust, and another the possibility of the national member of Eurojust being called upon to report to the Justice and Interior Committees in the Congress of Deputies and the Senate on the activity that it is carrying on. These are modifications that help, which I think it is important to acknowledge. (...)

Spain will have three representatives in Eurojust: the national member, the assistant and the correspondent for matters of terrorism, with the possibility of appointing other national correspondents for other forms of criminality and organised crime which require a special kind of response.

(...)

In Spain, the legislative option (...) chosen is to open the positions I just mentioned – national member, assistant and correspondent for terrorism – to members of the prosecution service and the judiciary. The function of the national member of Eurojust will be to actively stimulate judicial cooperation, receiving and remitting applications for judicial assistance with supplementary powers to act on the basis of the response of the judicial authorities, always under the control of that judicial authority or the prosecution service that first filed the request for assistance.

Another important point is the authorisation of access to information sources for the national member of Eurojust. (...)

A first draft of the bill envisaged a general duty of all Spanish authorities to cooperate with Eurojust, applying not only to bodies of the judiciary and the prosecution service but also to all other public authorities and entities, naturally with due regard for their respective competences and their own spheres of responsibility.

Requests which may affect criminal proceedings will be channelled through the State Prosecution Service, and it will be up to the State Public Prosecutor to decide whether a request can properly be granted and, as appropriate, (...) to give instructions to each of the members if the prosecution service acting in unison, as their official statute ordains.

(...)

The figure of the liaison magistrate has been functioning splendidly for years now in our cooperation with France, Italy, Belgium and the United Kingdom, and more recently, since I became the Minister of Justice in this legislature, we have further enhanced the potentialities of this figure.

I should like particularly to highlight the work that is being done by our liaison magistrate for the Kingdom of Morocco. There will be six liaison magistrates integrated in this mechanism of cooperation, within the framework of the European Union and outside it – that is, four in the European Union and two additional magistrates in non-Member States.

(*DSC-P*, VIII Leg., n. 151, pp. 7578–7586).

5. Fisheries

Replying on 15 September 2006 to a parliamentary question regarding the European Union's negotiations with Mauritania for the renewal of the Fisheries Agreement, the Government stated:

The latest round of negotiations between the European Commission and the fishery authorities of the Islamic Republic of Mauritania which took place at Nouakchott from 12 to 22 July 2006, culminated with the signing of a new 6-year agreement and a protocol for its application.

After almost a year of negotiations an agreement has been concluded which will enable the Spanish fleet to continue fishing in the Mauritanian grounds as from 31 July.

This agreement will enable over a hundred Spanish fishing boats to carry on fishing in these waters, in the various different categories; moreover, a new category has been included which will enable up to two new units to engage in crab fishing with lobster pots.

(...)

As to financial compensation, we have succeeded in maintaining the same figure as in the last agreement. (...).

Briefly then, the length of the term of the fisheries agreement, the conditions we have secured and the automatic renewal envisaged in the application protocol all constitute an assurance of stability for the Spanish fleet.

(*BOCG-Congreso D*, VIII Leg., 449, p. 327).

On 20 September, in response to a parliamentary question regarding the status of renewal of the fisheries agreement with Senegal, the Government replied:

(...) At this time the vessels which operated under the EC/Senegal agreement are fishing in neighbouring grounds such as those of Guinea Bissau and Mauritania, and somewhat further away, Guinea Conakry, all countries with which the EC has fisheries agreements.

I should note that owing to the lack of an agreement, the sector concerned has already requested assistance for the forcible suspension of activity in that fishing ground; the Central State Administration is currently analysing that request with the European Commission with a view to defining the terms of such a grant in the event that the situation should be prolonged.

At the same time, the Ministry of Agriculture, Fisheries and Food is working to renew the agreement with Senegal. To that end it is pressing in the European Commission for resumption of the negotiations in order to avoid losing the possibilities of fishing afforded by what is in fact the longest-standing agreement that Spain has with any third country and moreover affects other Community fleets from Greece, Italy, France and Portugal, confident that the current differences regarding technical and financial conditions can be settled with the Senegalese authorities.

(*BOCG-Congreso.D*, VIII Leg., n. 455, p. 538).

6. Energy Policy

Appearing on 14 June 2006 to report to the *Cortes Generales* on the agenda for the European Council on 15 and 16 June, the Secretary of State for the European Union stated:

(...) Energy policy is still a national matter; there is no legal basis regarding it in any treaties, but there is such a basis in the Constitutional Treaty. The existence of such a market necessitates uniform rules and a series of interconnections as Spain is requesting, given that they are highly inadequate at the moment.

We are making progress on gas interconnections with Algeria (the new Medgaz gas pipeline) and on electricity interconnections with Portugal for the creation of an Internal Iberian Market (Mibel), but unfortunately the long-standing deficiencies of the electricity interconnection with France still persist. Spain still remains an island, rather less than 3% of whose electricity output is interconnected with other Member States, when at the Barcelona European Council during the Spanish presidency in 2002, it was decided that 10% should be interconnected by the year 2005. Obviously the Member States have not met this target (...).

(*DSCG-Comisiones Mixtas*, VIII Leg., n. 70, p. 5).

7. External Relations

a) *Afghanistan*

Appearing before the *Cortes Generales* on 3 October 2006 to report on the Asia-Europe Summit held at Helsinki on 10 and 11 September, the Secretary of State for the European Union stated:

(...) At the instance of the European Union, the final declaration also mentioned the need to help the government of Afghanistan secure control over the entire country and reiterated the signatories' commitment to reconstruction within the framework of the Afghanistan Pact. (...) In conjunction with its partners in the European Union and its allies in NATO, Spain has made an undertaking to the Afghan people and the international community to consolidate the governability, reconstruction and viability of Afghanistan, in accordance with the United Nations mandate and within the framework of the Atlantic Alliance. This constitutes a long-term effort and commitment, made under the strictest conditions of international legality, entailing a military and civil presence in difficult conditions (...) – I should remind you all that over 80 Spanish military personnel have given up their lives in this effort.

Without prejudice to the growing protagonism that the Afghans themselves must assume, the stabilisation and economic development of Afghanistan is also a quite unprecedented venture for our diplomacy and our development cooperation machinery which, in close coordination with and supported by the Armed Forces, is implementing a policy of reconstruction, security and institution-building there, through the agency of a provincial reconstruction team and

a forward support base in the eastern region. It is Spain's intention to maintain its presence during the political phase that began in the wake of the London Conference last January and the implementation of the Afghanistan Pact, the document containing the mutual undertaking of the international community and the Afghan government. The Minister of Foreign Affairs and Cooperation has committed 150 million euros for the purpose over the next five years, to be spent essentially on reconstruction, health, gender, governability and institutional support projects in the province of Baghis (...).

(*DSCG-Comisiones Mixtas*, VIII Leg., n. 75, p. 4).

b) Burma

Appearing before the *Cortes Generales* on 3 October 2006 to report on the Asia-Europe Summit held at Helsinki on 10 and 11 September, the Secretary of State for the European Union stated:

(...) The European Union's position is very clear and coincides with that of the United States, Japan and other allies. Nonetheless, in the view of Spain it is basically up to the Asian countries, and particularly ASEAN neighbours, to exert as much pressure as possible; this will undoubtedly be the most valid source of such pressure to persuade the Rangoon regime to initiate an absolutely necessary process of national reconciliation. In that connection, Spanish diplomacy is coordinating closely with that of our partners in the European Union (...)

(*DSCG-Comisiones Mixtas*, VIII Leg., n. 75, p. 4).

c) Cuba

Appearing on 14 June 2006 to report to the *Cortes Generales* on the agenda for the European Council on 15 and 16 June, the Secretary of State for the European Union stated:

(...) the General Affairs Council renewed (...) the common European Union position on Cuba; this is a wide-ranging statement of position which naturally embraces the defence of human rights. Promotion of democracy in Cuba is a position that the Spanish government has always backed; we (...) do not want sanctions; we do not support the US embargo, which is morally unacceptable and harms the Cuban people first and foremost. But we do want to open up windows of freedom in Cuba and help prepare the way for change and a peaceful transition, and these ideas are reflected in that common position – which, as I said, was unanimously renewed by the Council in Luxembourg last Monday (...).

(*DSCG-Comisiones Mixtas*, VIII Leg., n. 70, p. 15).

Replying on 17 November 2006 to a parliamentary question tabled in Congress, the Government stated as follows:

(...) the Conclusions of the European Union General Affairs and External Relations Council (GAERC) issued in January 2005, in which it was decided to suspend the measures adopted by the Council in June 2003, recognised the

need to maintain a structured dialogue with the representatives of peaceful Cuban dissidence. The same Conclusions further noted the desirability of senior officials of Member States meeting representatives of the peaceful domestic opposition on their visits to Cuba.

The June 2005 Conclusions of the GAERC reiterated the need to persist in meetings between representatives of the European Union and its Member States and the peaceful opposition.

And once again, at the last GAERC meeting that dealt with Cuba policy, in June this year, the Council reiterated its resolve to maintain a dialogue with the Cuban authorities and with the peaceful opposition and civil society in Cuba.

In this context, in a recent visit to Cuba the Secretary of State for Foreign Affairs contacted the principal representatives of the peaceful domestic opposition – something which has by the way become habitual in recent years as part of a solid and substantial dialogue that we maintain with all sectors of Cuban society.

As to the specific conduct of the meetings and the form in which they were organised, the Government stresses the need for care, prudence and discretion necessary in discussing these meetings and is therefore not prepared to go into any further detail in that respect.

(*BOCG Congreso D*, VIII Leg., 484, p. 248).

d) Asia-Europe Summit

Appearing before the *Cortes Generales* on 3 October 2006 to report on the Asia-Europe Summit held at Helsinki on 10 and 11 September, the Secretary of State for the European Union stated:

(...) ASEM offers a platform of undoubted interest to a country like Spain which wishes to project itself more strongly in Asia; in addition to enhancing our presence thanks to the mechanisms characteristic of multilateralism, it provides an opportunity to establish bilateral contacts with leaders in the Asian region; and in this connection the President of the Government (...) held formal meetings with the President of Indonesia, with the Prime Ministers of China, Japan, Thailand and Singapore, and naturally also other informal meetings with the President of the Philippines and other leaders from the European Union.

In conclusion, I believe the Honourable Members are fully alive (...) to the need for Spain to reinforce its presence on the Asian continent; in this connection the Government is working (...) on the opening of new embassies through Plan Asia, and the number of visits to the region has multiplied (...) the Minister of Foreign Affairs and Cooperation alone has already made twelve visits to Asia, and as you know, the President of the Government has made official visits to China and India and has agreed – indeed, within the framework of this Summit – to visit Japan also next January (...).

(*DSCG-Comisiones Mixtas*, VIII Leg., n. 75, p. 5).

e) Middle East Peace Process

Appearing on 20 December 2006 to report on the Brussels European Council held on 14 and 15 December, the President of the Government stated:

(...) the European Council has also passed a declaration on the Middle East peace process, thus once more raising Europe's voice to call for dialogue and common sense in the face of the tragic turn that events have recently taken in the zone.

(...) on 16 November last, Spain, France and Italy presented a proposal in that respect. A month later, the Union has enshrined the intent of that initiative from the three Mediterranean countries in a strongly-worded document in defence of the peace process and the European Union's commitment to it. The principal achievement of this declaration is that Europe (...) has reaffirmed its position at a crucial juncture which calls for the utmost political resolve. The declaration calls for extension of the cease-fire to the West Bank, urges the parties to resume their dialogue and invites the quartet and the regional partners to intensify their efforts to breathe more life into the peace process through the rapid and comprehensive application of the road map; it also calls for an immediate end to the violence and adoption of all measures necessary to overcome the existing mutual distrust. The declaration also underlines the desirability of convening a desperately-needed Middle East peace conference whenever the circumstances so permit. The Secretary-General and High Representative, Javier Solana, now enjoys renewed support so that his conversations and diplomatic negotiations can help to achieve more effective international action. Honourable Members, it is now up to the parties and the other bodies involved to do their job. Europe has enhanced its credibility and broadened its political horizons, and of course Spain will be lending all its diplomatic and political resources to help bring such a scenario of progress towards peace in the Middle East a little closer each day (...).

(*DSC-P*, VIII Leg., n. 224, p. 11348).

8. Guidelines on Children in Armed Conflicts

In response to a parliamentary question on 6 September 2006, the Government replied:

"Spain was actively involved in the biannual process of EU Directives on children in armed conflicts which was analysed last December. In both the Working Group on Human Rights and the General Affairs and External Relations Council (GAERC), Spain advocated that the review allow for more effective and flexible implementation of the Guidelines.

In the context of that review, the Union partners did not see a need to appoint a Special EU Representative for children and armed conflicts (...). On that subject the Spanish government believes that the work of Michael Matthiessen, Personal Representative for Human Rights of the EU High Representative for

External Policy and Common Security, will be crucial in achieving effective organisation of the Guidelines by coordinating the action of all the EU's special representatives on this matter. (...)

At the same time, the Government has had the EU Guidelines on children in armed conflicts firmly in mind when devising its bilateral policy, with a view to trying to put an end to the utterly unacceptable conditions in which so many children around the world are forced to live. Also, Spain's embassies are familiar with this instrument and use it in their day-to-day business and in their contacts with local authorities and other relevant actors.

(*BOCG-Congreso.D*, VIII Leg., n. 442, p. 128).

9. Alliance of Civilisations

Appearing before the *Cortes Generales* on 3 October 2006 to report on the Asia-Europe Summit held at Helsinki on 10 and 11 September, the Secretary of State for the European Union stated:

(...) Spain succeeded in having an acknowledgement of the value of the Alliance of Civilisations initiative included in the declaration, and in having the paragraph devoted to the anniversary of 11 September include – and I quote – all victims of terrorism.

The Alliance of Civilisations initiative has gathered strength, as has the projection that we sought by having it included in the final declaration of last year's Summit and having the UN Secretary-General acknowledge it as his own.

We owe gratitude to such major Asian countries as Indonesia, Pakistan, Malaysia, the Philippines and Thailand for having lent their support to this initiative, which is intended to present a novel approach to our relations with Islam, an issue that most Asian countries, many of them Islamic, understand and accept as their own.

The endorsement of the Alliance of Civilisations by the 39 countries involved in the ASEM process during the Helsinki Summit is undoubtedly a singularly important sign of recognition of the project by the Euro-Asian community. For its part, Spain is also co-sponsoring the interconfessional dialogue initiatives that countries like Indonesia are promoting within the ASEM framework (...).

(*DSCG-Comisiones Mixtas*, VIII Leg., n. 75, p. 4).

XIV. RESPONSIBILITY

1. Responsibility of International Organisations

On 30 October 2006 the Spanish representative on the Sixth Commission of the General Assembly, Mrs. Concepción Escobar Hernández, offered the following observations on the work of the International Law Commission relating to International Responsibility of International Organisations:

...although the Special Rapporteur had been wise to adhere closely to the articles on responsibility of States for internationally wrongful acts when drawing up the draft articles on circumstances precluding the wrongfulness of acts by international organisations, it was doubtful whether some of the grounds as currently formulated, were fully applicable to international organisations.

Draft articles 17, 20, 21, 23 and 24 were generally acceptable but draft article 18, concerning self-defence, did not sufficiently reflect the fact that the concept of self-defence as applied to international organisations differed considerably from the concept of self-defence as applied to States. Paradoxically, that fact was recognised in the commentaries to draft article 18. It should therefore form the subject of thorough debate in the future.

Necessity should preclude the unlawfulness of an act attributable to an international organisation but only in certain circumstances. Those circumstances had been noted in the commentaries to draft article 22. Nevertheless, the interest to be safeguarded, and its scope, gave rise to some misgivings. The Commission had opted for a formula which required the cumulative fulfilling of two conditions: the interest had to be an essential interest of the international community as a whole and its protection must constitute a function of the international organisation. The second condition did not give rise to any objections in view of the eminently functional character of international organisations, but the first condition was less acceptable. The determining factor for defining necessity must be the function of the organisation. Hence, there was no reason why necessity should not be relied upon in order to defend an interest of the international organisation or an essential interest of a member State whose defence formed part of the organisation's functions. For that reason, draft article 22 should be revised.

The wording of draft article 28 was rather imprecise. In particular, the use of the term 'circumvents' when read in conjunction with the ambiguous expression 'providing the organisation with competence in relation to that obligation' did not sufficiently safeguard the position of a State which, in good faith and without any wrongful intent, provided an international organisation with competence in areas which could in some way be related to international obligations assumed by the State outside the organisation. That could result in the establishment of objective responsibility, which was unacceptable. Draft article 28 therefore needed to be rethought to take account of two factors: on the one hand the gradual widening of the material scope of international organisations' operations and the resulting impact on the many and various obligations assumed by member States inside and outside the organisation; and, on the other, the different types of international organisations and hence the differing status of member States within them.

With regard to the precept of subsidiary responsibility draft article 29, her delegation could endorse its spirit but felt that the meaning of phrases such as 'has accepted responsibility' and 'has led the injured party to rely on its responsibility' had not been sufficiently elucidated in the commentary and that draft article 29 should therefore be re-examined.

Turning to the two questions posed in paragraph 28 of the Commission's report, she said that any answer to the first question must take a variety of factors into account: first, the need to preserve the principle of the separate legal personality of the organisation and its member States; secondly, the no less important necessity of safeguarding the principle that, within the framework of international liability for a wrongful act, the obligation to provide compensation flowed from the finding that a wrongful act had taken place and hence that obligation lay with the author of the wrongful act; thirdly, the fact that, according to the general theory of liability, those legal subjects which were beforehand generally in a position to act as guarantors for the author of the wrongful act giving rise to liability had a subsidiary obligation to provide compensation; and, lastly, the person in question must have expressly agreed to assume subsidiary liability. Those circumstances were, on the whole, difficult to apply to a member State of an international organisation.

As a general rule, and save as otherwise provided in the treaties establishing international organisations or other international instruments to which the State concerned was a party, the member States of an international organisation which were not responsible for an internationally wrongful act committed by the organisation were not obliged to compensate the injured party if the organisation was not in a position to do so.

As for the second question in paragraph 28, there were not sufficient grounds *a priori* for concluding that, in the event of an international organisation committing a serious breach of an obligation stemming from a mandatory rule, a regime other than that laid down for cases in which the same conduct would be attributable to a State should apply. The draft articles on responsibility of international organisations should therefore also include an obligation on the part of States and other international organisations to cooperate to bring to an end, by lawful means, a breach of those norms by an international organisation.

(UN Doc. A/C.6/61/SR.14, pp. 10–12).

XV. PEACEFUL SETTLEMENT OF DISPUTES

XVI. COERCION AND THE USE OF FORCE SHORT OF WAR

1. Democratic Republic of the Congo

In reply to a parliamentary question on 7 July 2006, the Spanish Government reported on Spain's participation in the deployment of a European Union Force in the Democratic Republic of the Congo, authorised by the United Nations Security Council.

A Resolution of the United Nations Security Council dated 30 July 2006 authorised the deployment of a European Union Force (Eurofor DR Congo) in the

Democratic Republic of the Congo to assist the United Nations Mission in that country during the period leading up to and following the elections scheduled for 30 July 2006. On 27 April the Council of the European Union approved a Joint Action for this military operation, which has the express support of the Government of the Democratic Republic of the Congo.

On 2 June the Cabinet passed a Resolution ordering Spanish military units to take part in the European Union operation in the Democratic Republic of the Congo in support of the United Nations Mission there.

The Resolution notes that the maximum number of military personnel allowed for the operation as a whole is 130. The units taking part will be a rapid-reaction infantry company numbering 90, 10 officers and NCOs at the Operational GHQ in Potsdam (Germany) and the Force GHQ in Kinshasa, and a national logistical support element.

The Force will be deployed in such a way as to assure full operational capacity sufficiently well in advance of the presidential and legislative elections scheduled for 30 July 2006. The operation will end four months after the first round of voting.

On 30 May the Minister of Defence appeared before the Congress Defence Committee and asked permission for a contingent of 130 soldiers to take part in this mission; permission was granted by a large majority, with no opposition from any of the parliamentary groups.

(*BOCG-Congreso.D*, VIII Leg., n. 417, pp. 358–359).

2. Democratic People's Republic of Korea

On 29 November 2006 the Government presented a report on compliance with United Nations Security Council Resolution 1718 (2006):

Paragraph 11 of Resolution 1718 (2006), adopted by the Security Council on 14 October 2006, calls upon all Member States to report to the Security Council within 30 days on the steps they have taken with a view to implementing the measures imposed by paragraph 8 of the aforementioned resolution.

The report describes the steps taken by Spain to comply with its obligations under the resolution, steps which also reflect Spain's commitment to the United Nations and to the multilateral non-proliferation regime.

Steps taken to implement the provisions of paragraph 8 of Security Council resolution 1718 (2006):

Paragraph 8, subparagraph (a)

All Member States shall prevent the direct or indirect supply, sale or transfer to the DPRK, through their territories or by their nationals, or using their flag vessels or aircraft, and whether or not originating in their territories, of:

Paragraph 8, subparagraph (a) (i)

Any battle tanks, armoured combat vehicles, large calibre artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems as defined for the purpose of the United Nations Register on Conventional Arms,

or related material including spare parts, or items as determined by the Security Council or the Committee established by paragraph 12 below.

Royal Decree 1782/2004 of 30 July 2004 approving the regulations for the control of external trade in defence materials, other materials and dual-use products and technologies, controls *erga omnes* exports of all such materials included in Annex I.1 of the regulations, on the reporting of defence material. The Inter-Ministerial Regulatory Board on External Trade in Defence Material and Dual-Use Goods has taken the relevant decisions in accordance with Security Council resolution 1718 (2006).

Paragraph 8, subparagraph (a) (ii)

All items, materials, equipment, goods and technology as set out in the lists in documents S/2006/814 and S/2006/815, unless within 14 days of adoption of this resolution the Committee has amended or completed their provisions also taking into account the list in document S/2006/816, as well as other items, materials, equipment, goods and technology, determined by the Security Council or the Committee, which could contribute to DPRK's nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes.

List contained in document S/2006/814: Nuclear material, equipment and technology, equipment, materials, applications and technology assimilated for dual nuclear use

Royal Decree 1782/2004 of 30 July 2004, approving the regulations for the control of external trade in defence materials, other materials and dual-use products and technologies, controls *erga omnes* exports of all such materials in accordance with European Council Directive No. 1334/2000 of 22 June 2000, which lists them in its Annex I. The Inter-Ministerial Regulatory Board on External Trade in Defence Material and Dual-Use Goods has taken the relevant decisions in accordance with Security Council resolution 1718 (2006). Moreover, Spain is a member of the Nuclear Suppliers Group and the Zangger Committee, in which forums she exchanges information with other members concerning transfer denials.

List contained in document S/2006/815: Missile technology, equipment and applications

Royal Decree 1782/2004 of 30 July 2004 approving the regulations for the control of external trade in defence materials, other materials and dual-use products and technologies, controls *erga omnes* exports of all such materials in accordance with European Council Directive No. 1334/2000 of 22 June 2000, which lists them in its Annex I. The Inter-Ministerial Regulatory Board on External Trade in Defence Material and Dual-Use Goods has taken the relevant decisions in accordance with Security Council resolution 1718 (2006). Moreover, Spain is a member of the Missile Technology Control Regime, a forum in which she exchanges information with other members concerning transfer denials.

List contained in document S/2006/816: This document (the list of items, materials, equipment, goods and technology linked to programmes of other weapons of mass destruction) has been replaced by document S/2006/853

Royal Decree 1782/2004 of 30 July 2004, approving the regulations for the control of external trade in defence materials, other materials and dual-use products and technologies, controls *erga omnes* exports of all such materials in accordance with European Council Directive No. 1334/2000 of 22 June 2000, which lists them in its Annex I. The Inter-Ministerial Regulatory Board on External Trade in Defence Material and Dual-Use Goods has taken the relevant decisions in accordance with Security Council resolution 1718 (2006). Moreover, Spain is also a member of the Australia Group, a forum in which she exchanges information with other members concerning transfer denials.

Paragraph 8, subparagraph (a) (iii)

Luxury goods

The export of these goods shall be subject to a “red channel” (physical) inspection by the Department of Customs and Foreign Investments, under which transactions destined for or originating in the Democratic People’s Republic of Korea (DPRK) shall be frozen. As a complementary measure, in order to establish a system of authorisations for these goods, agreement should be reached on the preparation of a list, based on the Consolidated List or an FOB value, within the framework of the European Community.

Paragraph 8, subparagraph (b)

The DPRK shall cease the export of all items covered in subparagraphs (a) (i) and (a) (ii) above and all Member States shall prohibit the procurement of such items from the DPRK by their nationals, or using their flagged vessels or aircraft, and whether or not originating in the territory of the DPRK.

Royal Decree 1782/2004 of 30 July 2004, approving the regulations for the control of external trade in defence materials, other materials and dual-use products and technologies, controls *erga omnes* exports of all materials that are weapons of war or that are included in the lists of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, of 13 January 1993.

The importation of all items included in subparagraphs 8 (a) (i) and (ii) above shall be subject to a ‘red channel’ (physical) inspection by the Department of Customs and Foreign Investments, under which transactions originating in the Democratic People’s Republic of Korea (DPRK) shall be frozen. There are currently no plans to establish a system of authorisations for these goods, unless agreement is reached on the preparation of a list, based on the Consolidated List or an FOB value, within the framework of the European Community.

Paragraph 8, subparagraph (c)

All Member States shall prevent any transfers to the DPRK by their nationals or from their territories, or from the DPRK by its nationals or from its territory, of technical training, advice, services or assistance related to the provision, manufacture, maintenance or use of the items in subparagraphs (a) (i) and (a) (ii) above.

Royal Decree 1782/2004 of 30 July 2004 approving the regulations for the control of external trade in defence materials, other materials and dual-use

products and technologies, controls *erga omnes* exports of technical training, advice, services or assistance relating to the supply, manufacture, stockpiling or use of the items set forth in subparagraphs 8 (a) (i) and (ii) above.

Paragraph 8, subparagraph (d)

All Member States shall, in accordance with their respective legal processes, immediately freeze the funds, other financial assets and economic resources which are on their territories at the date of the adoption of this resolution or at any time thereafter, that are owned or controlled, directly or indirectly, by the persons or entities designated by the Committee or by the Security Council as being engaged in or providing support for, including through other illicit means, DPRK's nuclear-related, other weapons of mass destruction-related and ballistic missile-related programmes, or by persons or entities acting on their behalf or at their direction, and shall ensure that any funds, financial assets or economic resources are prevented from being made available by their nationals or by any persons or entities within their territories, to or for the benefit of such persons or entities.

Spain may adopt measures in accordance with the provisions of article 4.3 of Act No. 19/2003 of 4 July 2003: 'The Government, by agreement with the Council of Ministers, and at the proposal of the Ministry of the Economy, may prohibit or limit the implementation of certain capital movements and their corresponding collection or payment transactions, as well as transfers from or to the exterior, or variations in external debtor or creditor accounts or financial positions with respect to a State, territory or extra-territorial centre, or group of States, in application of measures adopted by international organisations other than the European Community, of which Spain is a member'. Spain will wait to be informed by the Committee established pursuant to resolution 1718 (2006) that persons or entities have been subjected to the indicated measures.

Paragraph 8, subparagraph (e)

All Member States shall take the necessary steps to prevent the entry into or transit through their territories of the persons designated by the Committee or by the Security Council as being responsible for, including through supporting or promoting, DPRK policies in relation to the DPRK's nuclear-related, ballistic missile-related and other weapons of mass destruction-related programmes, together with their family members, provided that nothing in this paragraph shall oblige a state to refuse its own nationals entry into its territory.

Spain applies restrictions on the issuing of residence and transit visas in coordination with the other States members of the Schengen area, prohibiting the issuing of visas to persons included in the Schengen Information System (SIS) in a coordinated manner. The designated persons must be added to the list for the corresponding restrictions to be applied. Spain will wait to be informed by the Committee established pursuant to resolution 1718 (2006) that persons or entities have been subjected to the indicated measures.

Paragraph 8, subparagraph (f)

In order to ensure compliance with the requirements of this paragraph, and thereby prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery and related materials, all Member States are called upon to take cooperative action, in accordance with their national authorities and legislation, and consistent with international law, including through inspection of cargo to and from the DPRK, as necessary.

Royal Decree 1782/2004 of 30 July 2004 approving the regulations for the control of external trade in defence materials, other materials and dual-use products and technologies, controls *erga omnes* transfers (including imports and exports) of all biological, chemical or radioactive agents 'adapted for use in war', and includes them in its Annexes I.1 (exports) and III.1 (imports). These materials are not found in the lists subject to embargo.

In addition to the information provided above with respect to the provisions of Security Council resolution 1718 (2006), it should be noted that within the framework of prevailing international law, and in application of the relevant national legislation on the matter, Spain employs all available resources for the implementation of the resolution. Special mention should be made of the negotiation, within the framework of the European Union, of complementary measures aimed at ensuring that the action of States members is consistent across the territory of the European Union.

Furthermore, Spain participates in various international forums for the control of exports (the Nuclear Suppliers Group, the Zangger Committee, the Australia Group, the Missile Technology Control Regime and the Wassenaar Arrangement), in which it exchanges information concerning measures, requirements and transfer denials with respect to defence and dual-use materials included in the lists of the respective forums.

Spain is among the States which have signed the interdiction principles of the Proliferation Security Initiative and thereby undertakes to interdict trafficking in weapons of mass destruction, their delivery systems and related materials with non-State actors and proliferating States. The experience acquired during the exercises carried out under this initiative has improved Spain's response capacity by identifying practices, obstacles and procedures which will help enhance the functioning of its system for the control of transfers.

Although it has not yet entered into force, Spain has signed the Convention for the Suppression of Illegal Acts against the Safety of Marine Navigation, and the spirit of the Convention is already present in Spain's political will.

In short, the Government of Spain is employing all the means required by law for the proper fulfilment of its international obligations, including the provisions of Security Council resolution 1718 (2006).

(UN Doc. S/AC.49/2006/36, pp. 1–6).

XVII. WAR AND NEUTRALITY

1. Disarmament

In reply to a parliamentary question on 2 November 2006, the Government reported on the position upheld by Spain at the New York Conference on small arms and light weapons:

During the Conference to examine implementation of the United Nations Action Programme to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects, which was held at the UN Headquarters in New York from 26 June to 7 July 2006, an effort was made, as had been agreed within the European Union, as far as possible to maintain a common position at all times on all the topics put to debate, other than in national speeches in the high-level segment of the general debate at the start of the Conference. To that end, daily meetings were held to coordinate the EU partners, and there the different national positions were laid out.

As to the European Union's goals for the Conference, the EU identified the following issues as priority objectives which should be included in a minimally satisfactory way in the document emerging from the Conference:

- The fight against illegal brokering of small arms and light weapons;
- Controls on transfers of such arms (Initiative on Control of Transfers);
- Greater integration of issues relating to small arms and light weapons in development and anti-poverty strategies (national, regional and global);
- Inclusion of ammunition for small arms and light weapons;
- Future follow-up of the Action Programme.

The postulates of Spain's position are reflected in the contributions of our delegation to the high-level segment of the general debate (the same as we have defended at the Community coordination meetings I referred to earlier). There, the Spanish delegation called for enhancement of the Action Programme as a progressive and dynamic framework through the introduction of effective means of follow-up and new areas of activity and mandates on issues like control of transfers, illegal brokering, ammunition, portable anti-aircraft systems, non-State actors and regulation of the civil possession of arms.

In this connection the Spanish delegation stated that it shared the aspirations identified in connection with the Examining Conference by the Latin America and Caribbean Group (GRUALC) in the Antigua Declaration (Guatemala); this adopted on 4 May last at a meeting of that Regional Group at the Spanish International Cooperation Agency (AECI) Training Centre, organised with technical and financial support from the Spanish government.

He repeated that the Spanish government firmly supports the proposal to draw up a global treaty on trade in conventional weapons within the framework of the United Nations and reported that the finishing touches were being put to a Bill on arms trading intended to assure periodic controls by the Spanish parliament on transfers of military, police and security materiel and dual-use products and

technologies to other States, and also to guarantee transparency in the official information offered regarding such transfers.

The spokesman further explained that the Spanish authorities were considering offering more financial support to cooperation projects connected with the fight against illicit trading in small arms and light weapons, which could total approximately one million euros for the period 2006–2007, using trust funds from existing multilateral and regional organisations.

Spain's contribution was welcomed by the Non-Governmental Organisation platforms present at the Conference.

(*BOCG-Congreso.D*, VIII Leg., n. 458, pp. 284–285).