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UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED
CRIME

NEW YORK, 15 NOVEMBER 2000

SPAIN: COMMUNICATION RELATING TO GIBRALTAR

The Secretary-General of the United Nations, acting in his capacity as depositary,
communicates the following:

On 7 February 2008, the Secretary-General received from the Government of Spain a
communication relating to Gibraltar.

..... The text of the above communication is attached herewith.

17 March 2008



Attention: Treaty Services of Ministries of Foreign Affairs and of international organizations concerned. Depositary notifications are currently issued in both hard copy and electronic format. Depositary notifications are made available to the Permanent Missions to the United Nations at the following e-mail address: missions@un.int. Such notifications are also available in the United Nations Treaty Collection on the Internet at <http://untreaty.un.org>, where interested individuals can subscribe to directly receive depositary notifications by e-mail through a new automated subscription service. Depositary notifications are available for pick-up by the Permanent Missions in Room NL-300.

(Translation)(Original: Spanish)

No. 110/AV/ot

The Permanent Mission of Spain to the United Nations presents its compliments to the Secretary-General of the United Nations and has the honour to refer to note verbale no. 54/IPE/ac sent by this Permanent Mission on 17 January 2008 with regard to the United Nations Convention against Transnational Organized Crime, which was opened for signature in December 2000, and transmitting a unilateral declaration of Spain pertaining to that Convention, following its extension to Gibraltar by the United Kingdom on 27 November 2007.

The Permanent Mission of Spain wishes to inform the Secretary-General that on 19 December 2007, following an exchange of letters between their Permanent Representatives to the European Union, the English and Spanish versions of which are annexed to the present document, the Kingdom of Spain and the United Kingdom reached agreement on the "Agreed Arrangements relating to Gibraltar Authorities in the Context of Mixed Agreements (2007)" (annex I). The text of the "Agreed Arrangements relating to Gibraltar Authorities in the Context of European Union and European Community Instruments and Related Treaties" of 19 April 2000 is also annexed in both languages (annex II).

The procedure envisaged in the arrangements relating to Gibraltar authorities in the context of Mixed Agreements (2007), which was agreed by Spain and the United Kingdom on 19 December 2007, applies to the United Nations Convention against Transnational Organized Crime, since it is a mixed agreement.

The Permanent Mission of Spain to the United Nations should be grateful if the Secretary-General would inform the States parties to the United Nations Convention against Transnational Organized Crime of the content of this note verbale and of the texts annexed.

The Permanent Mission of Spain to the United Nations takes this opportunity to convey to the Secretary-General the assurances of its highest consideration.

New York, 7 February 2008

ANNEX I

**AGREED ARRANGEMENTS BETWEEN THE KINGDOM OF SPAIN
AND THE UNITED KINGDOM RELATING TO
GIBRALTAR AUTHORITIES IN THE CONTEXT OF
MIXED AGREEMENTS**

19 DECEMBER 2007

(Translation)(Original: Spanish)

Brussels, 19 December 2007

Sir,

I am writing to thank you for your letter of 19 December setting out your Government's view on arrangements relating to mixed agreements that have been extended to Gibraltar and which, for the purposes of their implementation, could give rise to the intervention of Gibraltar authorities.

I am pleased to confirm that the arrangements set out in your annexed letter are acceptable to the Government of Spain and that your letter and the present reply constitute the official expression of both our Governments' understanding on this matter, which shall be known as "Agreed Arrangements relating to Gibraltar Authorities in the Context of Mixed Agreements (2007)" and shall be applicable as of today.

I also agree that, once you receive my reply, we should both transmit a copy of our exchange of letters/notes verbales to the Secretary-General of the Council of the European Union, with the request that he distribute the aforementioned correspondence to the Permanent Representatives of the other member States and to the other European Union institutions for information.

The present arrangements and any activity or measure undertaken in implementation or as a consequence thereof do not imply any change whatsoever in the Kingdom of Spain's and the United Kingdom's respective positions on the question of Gibraltar or on the boundaries of that territory.

Yours sincerely,

(Signed) Carlos Bastarreche
Permanent Representative of Spain to the European Union

H. E. Mr. Kim Darroch
Permanent Representative of the United Kingdom to the European Union
Av. d'Auderghem, 10
1040 Brussels

(Original: English)



The Permanent Representative
Kim Darroch CMG

United Kingdom
Permanent Representation
To the European Union

19 December 2007

HE Carlos Basterreche
Spanish Permanent Representative
To the European Union

Avenue d'Auderghem 10
1040 Brussels
Telephone: (0032)(2) 287 8271
Facsimile: (0032)(2) 287 8383
e-mail: kim.darroch@fco.gov.uk

Dear Carlos,

I refer to the discussions we have had regarding the applicability of the "Agreed arrangements relating to Gibraltar authorities in the context of EU and EC instruments and related Treaties of 19th April 2000" to mixed Agreements, which have been extended to Gibraltar, and which, for the purpose of implementation, may result in the intervention of Gibraltar authorities. ('Mixed Agreement' means an international instrument that contains provisions some elements of which fall within Community competence and some of which fall within the competence of the Member States, and to which the Community – if that is permissible under the instrument in question – and the Member States are Parties, following a Council Decision).

It is the understanding of my Government following these discussions that for these mixed Agreements the system of 'postboxing' in the 2000 arrangements will apply for communications between Spanish authorities and a Gibraltar body, authority or service but not for communications between the authorities of other States and Gibraltar.

Notwithstanding the above, for instruments covered by paragraphs 5a – 5d of the 2000 arrangements, "postboxing" as set out in those arrangements will, for the time being, remain in place.

If the arrangement set out above regarding mixed agreements is acceptable to the Government of Spain, I suggest that this letter and



your reply will place on record the understanding of our two Governments which will be known as the "Agreed arrangements relating to Gibraltar authorities in the context of mixed Agreements (2007)" and will be implemented as of the date of your reply.

I propose that, on receipt of your reply, we should each send a copy of our exchange of letters / notes to the Secretary General of the Council of the European Union with the request that he circulates the aforementioned communication to the Permanent Representatives of the remaining Member States and to the other institutions of the European Union for their information.

These arrangements or any activity or measure taken for their implementation or as a result of them do not imply either on the side of the United Kingdom or on the side of the Kingdom of Spain any change in their respective positions on the question of Gibraltar or on the limits of that territory.

Yours

A handwritten signature in black ink, appearing to read 'Kim'.

KIM DARROCH

ANNEX II

**AGREED ARRANGEMENTS BETWEEN THE KINGDOM OF SPAIN
AND THE UNITED KINGDOM RELATING TO
GIBRALTAR AUTHORITIES IN THE CONTEXT OF EUROPEAN UNION
AND EUROPEAN COMMUNITY INSTRUMENTS AND RELATED TREATIES**

19 APRIL 2000



United Kingdom
Permanent Representation
To the European Union

The Permanent Representative

19 April 2000

HE Mr Javier Elorza Permanent
Representative of Spain to the
European Union BRUSSELS

Avenue d'Auderghem 10 1040
Brussels

Telephone: 0032 2 287 8211

Telcx: 24312

Facsimile: 0032 2 287 8398 DID:

0032 2 287 8231

Dear Ambassador,

I refer to the discussions which have taken place between our two Governments to resolve certain difficulties which have arisen relating to Gibraltar authorities in the context of EU and EC instruments and related treaties. I now attach to this letter arrangements, as agreed in those discussions, relating to Gibraltar authorities in the context of EU and EC instruments and related treaties ("the arrangements") in the English and the Spanish languages, both texts having equal validity, which will take effect on 1 June 2000.

If the Government of Spain confirms its agreement to the arrangements, they will form an understanding to which our two Governments are committed.

I propose that, on receipt of your reply, we should each copy the arrangements, together with our exchange of correspondence, to the Secretary General of the Council with the request that he circulates the arrangements, together with this exchange of correspondence, to the Permanent Representatives of other Member States and to the other institutions of the European Union in accordance with paragraph 8 of the arrangements for their information and for the purposes indicated in them.

Yours sincerely
Stephen Wall

J S Wall

**ARRANGEMENTS RELATING TO GIBRALTAR AUTHORITIES IN THE
CONTEXT OF EU AND EC INSTRUMENTS AND RELATED TREATIES**

19 April 2000

1. Taking account of the responsibility of the United Kingdom of Great Britain and Northern Ireland as the Member State responsible for Gibraltar, including its external relations, under the terms of Article 299.4 of the Treaty establishing the European Community, when in an instrument or treaty of the type specified in paragraph 5 a provision is included whereby a body, authority or service of one Member State of the European Union may communicate directly with those of another EU Member State or may take decisions with some effect in another EU Member State, such a provision will be implemented, in respect of a body, authority or service of Gibraltar (hereinafter referred to as "Gibraltar authorities"), in accordance with the procedure in paragraph 2 and in the cases specified therein, through the authority of the United Kingdom specified in paragraph 3. The obligations of an EU Member State under the relevant instrument or treaty remain those of the United Kingdom.

2. In order to implement such a provision, formal communications and decisions to be notified which are taken by or addressed to the Gibraltar authorities will be conveyed by the authority specified in paragraph 3 under cover of a note in the form attached for illustrative purposes in Annex 1. The authority specified in paragraph 3 will also ensure an appropriate response to any related enquiries. Where decisions are to be directly enforced by a court or other enforcement authority in another EU Member State without such notification, the documents containing those decisions by the Gibraltar authority will be certified as authentic by the authority specified in paragraph 3. To this effect the Gibraltar authority will make the necessary request to the authority specified in paragraph 3. The certification will take the form of a note based on Annex 1.

3. The authority of the United Kingdom mentioned in paragraphs 1 and 2 will be The United Kingdom Government/Gibraltar Liaison Unit for EU Affairs of the Foreign and Commonwealth Office based in London or any United Kingdom body based in London which the Government of the United Kingdom may decide to designate.

4. The designation by the United Kingdom of a Gibraltar authority in application of any instrument or treaty specified in paragraph 5 that includes a provision such as that mentioned in paragraph 1 will also contain a reference to the authority specified in paragraph 3 in the terms of Annex 2.

5. These arrangements will apply as between EU Member States to:

- a. any present or future European Union or Community instrument or any present or future treaty concluded within the framework of the European Union or European Community;
- b. any present or future treaty related to the European Union or European Community instrument to which all or a number of EU Member States or all or a number of EU and EFTA/EEA states are the only signatories or contracting parties;
- c. the Council of Europe Conventions mentioned in the Convention of 19 June 1990 implementing the Schengen Agreement;
- d. the following treaties related to instruments of the European Union:
 - The Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters done at the Hague on 15 November 1965.
 - The Convention on the Taking of Evidence Abroad in Civil or Commercial Matters done at the Hague on 18 March 1970.

- The Convention on the Civil Aspects of International Child Abduction done at the Hague on 25 October 1980 (when extended to Gibraltar)
- e. other treaties to which both sides agree that these arrangements should apply. Where there is no such agreement, the two sides will nevertheless seek to avoid and to resolve any problems which may arise.

In respect of the treaties specified in sub-paragraphs (a) and (b) these arrangements will also apply as between all the contracting parties to those treaties. Paragraphs 1 and 2 of these arrangements will be construed accordingly.

6. The spirit of these arrangements will be respected to resolve questions that may arise in the application of any provision of the kind described in paragraph 1, bearing in mind the desire of both sides to avoid problems concerning the designation of Gibraltar authorities.

7. These arrangements or any activity or measure, taken for their implementation or as a result of them do not imply on the side of the Kingdom of Spain or on the side of the United Kingdom any change in their respective positions on the question of Gibraltar or on the limits of that territory.

8. These arrangements will be notified to the EU institutions and Member States for their information and for the purposes indicated in them.

ANNEX 1

SPECIMEN NOTE FROM THE AUTHORITY SPECIFIED IN PARAGRAPH 3

On behalf of the United Kingdom of Great Britain and Northern Ireland as the Member State responsible for Gibraltar, including its external relations, in accordance with Article 299.4 of the Treaty establishing the European Community, I attach a certificate in respect of (the company), signed by the Commissioner of Insurance, the supervisory authority for Gibraltar.

In accordance with the Article 14 of the Directive 88/357/EEC, as amended by Article 34 of Directive 92/49/EEC, the (name of company) has notified to the Commissioner of Insurance in Gibraltar its intention to provide services into (name of EU Member State). The process envisaged by Article 35 of Directive 92/49/EEC is that within one month of the notification the competent authorities of the home Member State shall communicate to the host Member State or Member State within the territory of which an undertaking intends to carry on business under the freedom to provide services:

- (a) A certificate attesting that the undertaking has the minimum solvency margin calculated in accordance with Article 16 and 17 of Directive 73/239/EEC.
- (b) The classes of insurance which the undertaking has been authorised to offer.
- (c) The nature of the risks which the undertaking proposes to cover in the Member State of the provision of services.

ANNEX 2

FORMULA TO BE USED BY THE UNITED KINGDOM WHEN DESIGNATING A GIBRALTAR AUTHORITY

In respect to the application of the (name of instrument) to Gibraltar, the United Kingdom, as the Member State responsible for Gibraltar, including its external relations, in accordance with Article 299.4 of the Treaty establishing the European Community, designates (name of Gibraltar authority) as the competent authority for the purposes of (relevant, provision of the instrument). In accordance with arrangements notified in Council documents xxx of...2000:

One or more of the following alternatives will be used as appropriate

- any formal communications required under the relevant provisions of (name of instrument) which come from or are addressed to (name of Gibraltar authority)
- any decision taken by or addressed to (name of Gibraltar authority) which is to be notified under the relevant provisions of (name of instrument)

will be conveyed by (name of UK authority) under cover of a note. The (name of UK authority) will also ensure an appropriate response to any related enquiries.

Where decisions are to be directly enforced by a court or other enforcement authority in another Member State without the need of a formal previous notification.

- The documents containing such decisions of (name of Gibraltar authority) will be certified as authentic by the (name of UK authority). To this effect the (name of Gibraltar authority) will make the necessary request to the (name of UK authority). The certification will take the form of a note.

(Courtesy translation)(Original: Spanish)

Brussels, 19 April, 2000

His Excellency Sir J. Stephen WALL
Ambassador, Permanent Representative of the
United Kingdom to the European Union
BRUSSELS

Thank you for your letter dated 19 April to which are attached arrangements, as agreed in the discussions to which you refer, relating to Gibraltar authorities in the context of EU and EC instruments and related treaties ("the arrangements").

I confirm the agreement of the Government of Spain to the arrangements, which will form an understanding to which our two Governments are committed.

I agree that, on your receipt of my reply, we should each copy the arrangements, together with our exchange of correspondence, to the Secretary General of the Council with the request that he circulates the arrangements, together with this exchange of correspondence, to the Permanent Representatives of other Member States and to the other institutions of the European Union in accordance with paragraph 8 of the arrangements for their information and for the purposes indicated in them.

(signed) Javier ELORZA

Ambassador, Permanent Representative of
Spain to the European Union