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POSTAL ADDRESS—ADRESSE POSTALE: UNITED NATIONS, N.Y. 10017  
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Reference: C.N.790.2009.TREATIES-23 (Depositary Notification)

UNITED NATIONS CONVENTION ON CONTRACTS FOR THE  
INTERNATIONAL CARRIAGE OF GOODS WHOLLY OR PARTLY BY SEA  
NEW YORK, 11 DECEMBER 2008

SPAIN: SIGNATURE

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

On 23 September 2009, the Government of Spain signed the above Convention with a  
declaration relating to Gibraltar.

..... The text of the said declaration is attached herewith.

30 October 2009



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](mailto:missions@un.int). Such notifications are also available in the United Nations Treaty Collection on the Internet at <http://treaties.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)

In the event that this Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea of the United Nations Commission on International Trade Law, done at New York on 11 December 2008, is extended by the United Kingdom to include Gibraltar, the Kingdom of Spain wishes to make the following [declaration]:

**Declaration**

1. Gibraltar is a Non-Self-Governing Territory for whose international relations the Government of the United Kingdom is responsible and which is subject to a process of decolonization in accordance with the relevant decisions and resolutions of the United Nations General Assembly.
2. The Gibraltar authorities are local in character and exercise an exclusively domestic jurisdiction that originates in and is based on the powers allocated to and conferred on them by the United Kingdom, in accordance with its domestic law and in its capacity as the sovereign State upon which depends the said Non-Self-Governing Territory.
3. Consequently, any involvement by the Gibraltar authorities in the implementation of this Convention shall be understood to take place exclusively within the framework of the domestic jurisdiction of Gibraltar and shall not be considered to affect in any way the content of the two preceding paragraphs.
4. The procedure envisaged in the Agreed Arrangements relating to Gibraltar Authorities in the Context of Mixed Agreements (2007), signed by Spain and the United Kingdom on 19 December 2007 and attached herewith (together with the Agreed Arrangements relating to Gibraltar Authorities in the Context of EU and EC Instruments and Related Treaties of 19 April 2000),<sup>1</sup> shall be applicable to this Convention.

On 19 December 2007, through exchanges of letters between the Ministers for Foreign Affairs of Spain and the United Kingdom and between the Permanent Representatives of the two countries to the European Union, Spain and the United Kingdom concluded an agreement on arrangements relating to Gibraltar authorities in the context of certain international treaties to which the European Community/European Union is not a party or mixed agreements which are or may be extended to include Gibraltar and could therefore give rise to action by the Gibraltar authorities. These arrangements shall be applicable to this Convention (as will the Agreed Arrangements relating to Gibraltar Authorities in the Context of EU and EC Instruments and Related Treaties of 19 April 2000).

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<sup>1</sup> *Translator's note:* Of these two agreements, only the text of the Agreed Arrangements relating to Gibraltar Authorities in the Context of EU and EC Instruments and Related Treaties of 19 April 2000 is attached.

I would appreciate it if, in your capacity as depositary, you would inform all signatories of this notification and of the attached documents.

*(Signed)* Miguel Ángel Moratinos Cuyaubé  
Minister for Foreign Affairs and Cooperation

Agreed 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 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 subparagraphs (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.

19 April 2000

## 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 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 Articles 16 and 17 of Directive 73/239/EEC;
- (b) The classes of insurance which the undertaking has been authorized 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 of 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 document 7998/00 of 19 April 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.

(Translation) (Original: English and Spanish)

Foreign & Commonwealth Office  
London SW1A 2AH

From the Foreign Secretary

19 December 2007

His Excellency Miguel Angel Moratinos  
Ministry of Foreign Affairs  
MADRID

Dear Miguel,

I refer to the discussions we have had regarding the arrangements for formal communications and decisions to be notified which are taken by or addressed to Gibraltar authorities in the context of any international Treaty to which the European Community/European Union is not a party, and which has been extended to Gibraltar, and which, for the purpose of implementation, may result in the intervention of Gibraltar authorities (“a Relevant Instrument”).

It is the understanding of my Government following these discussions that for a Relevant Instrument the system of ‘postboxing’ in the “Agreed arrangements relating to Gibraltar authorities in the context of EU and EC instruments and related Treaties of 19<sup>th</sup> April 2000” will apply for communications between Spanish authorities and a Gibraltar body, authority or service, but not for communications between the authorities of other Parties and Gibraltar. The definitions of competent authorities shall refer to the Spanish and Gibraltarian competent authorities as designated for that Relevant Instrument.

If the arrangement set out above regarding international instruments 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 in the matter which will be known as the “Agreed arrangements relating to Gibraltar authorities in the context of certain international treaties (2007)” and will take effect immediately as of the date of your reply.

I propose that, if you signify your agreement to these arrangements, we should each transmit our exchange of letters notes to the depositary of a Relevant Instrument soon after the following three conditions have been satisfied:



- (a) the UK has ratified it;
- (b) it has been extended to Gibraltar by the UK;
- (c) Spain has ratified it.

I propose that whenever the UK has ratified a Relevant Instrument and it has been extended to Gibraltar by the UK, we will inform the Spanish Government. Likewise, Spain will inform the UK when it has ratified a Relevant Instrument.

The 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.

DAVID MILIBAND

TRADUCCIÓN NO OFICIAL

Madrid, 19 December 2007

Rt. Hon. David Miliband  
Secretary of State for Foreign and Commonwealth Affairs  
King Charles ST  
Whitehall  
London SW1A 2AH

Thank you for your letter dated 19 December 2007 setting out the understanding of your Government on arrangements relating to international Treaties to which the European Community/European Union is not a Party which have been extended to Gibraltar, and which, for the purpose of implementation may result in the intervention of Gibraltar authorities.

I confirm the acceptance of the Government of Spain of the arrangements set out in your letter annexed hereto. Your letter and this reply place on record the understanding of our two Governments in this matter which will be known as the "Agreed arrangements relating to Gibraltar authorities in the context of certain international treaties (2007)".

I agree that we should each transmit our exchange of letters/notes to the depository of a Relevant Instrument soon after the following three conditions have been satisfied:

- (a) the UK has ratified it;
- (b) it has been extended to Gibraltar by the UK;
- (c) Spain has ratified it.

I agree that we will inform your Government when Spain has ratified a Relevant Instrument and the UK will do the same when it has ratified such an international instrument and it has been extended to Gibraltar.

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 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.

Miguel Angel Moratinos