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We Need to Talk About Gibraltar

Spain's government, unlike Britain's, is fully at ease complying with its international obligations.

By JOSÉ MANUEL GARCÍA-MARGALLO

"Her Majesty's Government does not consider itself bound by the resolutions of the General Assembly and therefore will not negotiate with the Spanish Government on the basis of the same."

This was the surprising response by Michael Stewart, the British foreign secretary, in December 1968 to Resolution 2429 of the U.N. General Assembly, which called for the United Kingdom as administering power to put an end to the colonial situation in Gibraltar, stating that the continuation of such a situation was contrary to the purposes and principles of the U.N. Charter.

A year earlier, the General Assembly had adopted Resolution 2353, stating that any colonial situation that partially or completely destroys a country's national unity and territorial integrity—as in the case of Gibraltar—is incompatible with the purposes and principles of the U.N. Charter. Furthermore, the U.N. has not recognized any right to self-determination in the case of Gibraltar, although it calls for bilateral negotiations on sovereignty to take into account the interests of the colony's population.

Unlike the British government, the Spanish government is at ease in the context of international organizations, has full confidence in them, and is always willing to comply with their mandates. The U.N. has clearly established, in several resolutions, that the colonial situation in Gibraltar must end and that this should be achieved through negotiations between Spain and the U.K. Since the beginning of the current legislature, the Spanish government has urged the U.K. to resume bilateral negotiations as soon as possible on issues of Gibraltar's sovereignty, which have been on hold for far too long. We look forward to the re-initiation of these contacts.



News Pictures/Zuma Press

In addition to this noncompliance concerning the sovereignty question, the British government and the Gibraltarian local authorities have committed numerous other breaches of their obligations. The issue of most immediate concern is the dropping of 70 concrete blocks into the Bay of Gibraltar. Spain has no doubt about its sovereignty over these waters. They are off the isthmus connecting Gibraltar to Spain,

Spanish fishermen stage a demonstration in the waters off Gibraltar, Aug. 18.

which was never ceded by Spain to the U.K. under the Treaty of Utrecht. These waters and this land therefore have always

remained under Spanish sovereignty.

The dumping of concrete blocks also constitutes a violation of the most basic rules of environmental conservation. These waters account for 25% of the activity of local fishermen, who had been carrying out their normal activities and whose families are now deprived of their livelihoods. The Spanish government has also initiated proceedings to denounce another environmentally harmful practice: that of bunkering, or refueling ships at sea, in the waters off Gibraltar. This practice risks releasing toxic discharges into the sea.

Another important violation concerns diverse types of smuggling that take place from the territory of Gibraltar. The fact that Gibraltar is not considered part of the EU customs territory, and that it does not apply the EU system of VAT and excise duties, has given rise to an enormous increase in smuggling, including of tobacco. Seizures of illegal cigarettes from the colony increased by 213% between 2010 and 2012.

Therefore it is absolutely necessary to control the traffic passing through the gate between Gibraltar and Spain. These controls are essential for our country in the exercise of its responsibilities to the EU. They are totally in line with the Schengen Borders Code and in full accordance with the principles of randomness, proportionality and nondiscrimination. These principles show that the border controls are legal and do not contravene any Spanish or European laws.

Also problematic is Gibraltar's tax regime, which is characterized by opacity, especially regarding corporate tax. According to the British tax authorities, Gibraltar has 21,770 registered companies, of which only 10% pay taxes. As Gibraltar has a population of only 30,000 people, it is obvious that most of these companies are formed by nonresidents relocating to avoid taxes. This situation is especially harmful to the countries in which these companies actually operate.

On June 1, 2012, Spain complained to the European Commission about the illegal and incompatible state aid granted by Gibraltar to offshore companies via its corporate tax regime. Concerns about the colony's tax-haven status have also been expressed in forums such as the G-20 and G-8.

At the national level, the Spanish government is also implementing measures to combat tax fraud originating from Gibraltar, both by "shell" companies located in Gibraltar that conceal the true ownership of over 3,000 properties in Spain, and by the 6,700 Gibraltarians whose actual, but not fiscal, homes are in Spain and who benefit from our social services and infrastructure without contributing to them by paying taxes.

In short, Gibraltar's supposed "low-tax, free-trading economic model"—which a recent editorial in this newspaper praised—is a front, concealing those who seek to evade taxes in violation of the law.

More examples of violations of international obligations could be mentioned, but these are expressive enough.

Lord Palmerston once said that "Nations have no permanent friends or allies, they only have permanent interests." Spain does have friends, and views the U.K. as one. But in every friendship it is necessary to cultivate trust and to address any conflicts with honesty and transparency. The dialogue must be bilateral and respect international, European and national laws.

Spain is prepared to restart this dialogue. We are willing to accept the creation of ad hoc forums in which other authorities, such as the Gibraltarian government and the regional government of Andalusia, could participate regarding areas in which they have competencies, especially regarding those directly concerning residents on both sides of the gate.

But as Spanish Prime Minister Mariano Rajoy observed earlier this month to his British counterpart, [David Cameron](#), it is first necessary for the U.K. to show that it intends to undo the damage that has already been caused, in particular by removing the concrete blocks.

Mr. García-Margallo is Spain's minister of foreign affairs and cooperation.

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