



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/7121/Add.1

17 May 1968

ENGLISH

ORIGINAL: ENGLISH/SPANISH

Twenty-third session

IMPLEMENTATION OF THE DECLARATION ON THE GRANTING
OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES

GIBRALTAR

Report of the Secretary-General

Addendum

1. Following the submission on 27 February 1968 of the report of the Secretary-General in pursuance of General Assembly resolution 2353 (XXII) of 19 December 1967 concerning the question of Gibraltar (A/7121), further communications on the question have been received from the United Kingdom of Great Britain and Northern Ireland and from Spain.

2. On 19 March 1968, the Permanent Representative of the United Kingdom to the United Nations addressed to the Secretary-General the following communication:

"I have the honour to refer to my letter of 20 February 1968 about Gibraltar and to forward a copy of a letter dated 13 March 1968 from Her Majesty's Ambassador in Madrid to the Minister of Foreign Affairs of Spain. 1/

"The note from the Spanish Minister of Foreign Affairs dated 24 February and referred to in the Ambassador's letter is that reproduced as annex IV to your report on Gibraltar to the General Assembly of 27 February (A/7121).

"I shall be grateful if you will arrange for the circulation of this letter and its enclosure as a document of the General Assembly."

3. On 13 May 1968, the Deputy Permanent Representative of Spain to the United Nations addressed to the Secretary-General the following communication:

1/ Annex I.

"In accordance with the instructions of my Government and further to my letter of 26 February 1968, ^{2/} I have the honour to inform Your Excellency of the discussions in Madrid on 18 and 20 March between a United Kingdom delegation led by John G.S. Beith, Esq. C.M.G., Assistant Under-Secretary of State at the Foreign Office, and a Spanish delegation led by Don Fernando Olivie, Director-General for European Affairs at the Spanish Ministry of Foreign Affairs.

"1. The United Kingdom delegation stated that the Government of the United Kingdom of Great Britain and Northern Ireland was not prepared to comply with resolution 2353 (XXII) of the General Assembly of the United Nations and would continue to invoke the Treaty of Utrecht of 13 July 1713 to justify its presence in Gibraltar.

"The Spanish delegation stated that it was unable to understand that attitude of the United Kingdom Government as the only objectively valid solution for the elimination of the Gibraltar colonial situation was that set forth in resolution 2353 (XXII), adopted by the General Assembly on 19 December 1967. Nevertheless, the Spanish Government, making a further effort prompted by its desire to achieve an understanding with the United Kingdom Government, stated its willingness to consider any proposal which the United Kingdom delegation might put forward.

"The proposals then advanced by the United Kingdom delegation were designed to obtain from Spain the concession of a series of facilities in Spanish waters, air space and territory bordering Gibraltar which would facilitate the unrestricted development of the United Kingdom's military presence on the Rock and, consequently, the consolidation of the Gibraltar colonial situation.

"2. As any co-operation by the Spanish Government with the United Kingdom Government in such circumstances would imply the acceptance of the United Kingdom's colonialist expansion even further beyond the confines of Gibraltar to the detriment of Spanish sovereignty, the Spanish delegation asked the United Kingdom delegation if the Government of the United Kingdom of Great Britain and Northern Ireland - which had affirmed its respect for the Treaty of Utrecht - was in a position to withdraw:

"(a) The declaration of sovereignty over one square kilometre of Spanish territory adjacent to the Rock made - for the first time in history - on 12 July 1966 (document A/6700/Add.9, annex I, p. 4);

"(b) The statement, made on 5 January 1967, that United Kingdom military aircraft had acquired the right to use Spanish air space near Gibraltar (note No. 14 of 30 January 1967);

"(c) The assertion, made on 8 December 1967, that the United Kingdom possessed certain Spanish waters in the Bay of Algeciras which my country did not include in the cession effected under the colonial Treaty of Utrecht (document A/C.4/SR.1743 refers).

"The United Kingdom delegation stated that it lacked instructions which would enable it to reply to that question, of which it took due note in order to transmit it to its Government. The discussions were interrupted at that point. As Your Excellency will observe, it was through the United Kingdom's refusal that the outcome of the discussions was not such as would have enabled both countries to comply with General Assembly resolution 2353 (XXII).

"3. I should point out to Your Excellency that, on 1 April 1968, the Foreign Secretary, Mr. Stewart, replying to a question in the House of Commons, stated that the Spanish attitude made it impossible to create a better atmosphere in which progress towards a settlement of the problem of Gibraltar would have been possible. He concluded by saying that the conversations had now ended, thereby implicitly replying to the question which the Spanish delegation had put to the United Kingdom delegation.

"For his part, the Spanish Minister for Foreign Affairs, Mr. Castiella, in a speech to the Spanish Cortes on 3 April 1968, said: 'We shall never - I repeat, never - refuse to resume the dialogue with the United Kingdom if it so wishes. The United Kingdom, however, will first have to prove to us that the dialogue will take place on the terms indicated by the United Nations.'

"4. The United Kingdom's decision to continue to base its position on the Treaty of Utrecht of 1713 - which is at the heart of the colonial situation in Gibraltar - left Spain no other course but to apply those clauses of the Treaty which protect Spanish interests and can serve to check the United Kingdom's colonialist expansion into Spanish territory, waters and air space adjacent to the Rock.

"One of those clauses provides for the closure of the Police Control Post at La Linea de la Concepción, the only land link between Gibraltar and the remainder of Spain. To prevent such closure from adversely affecting the Gibraltarians, whose interest Spain has consistently offered to respect, a transit system through that Police Control Post was established as from 6 May 1968, by which any Gibraltarian requesting it is issued with a special pass which allows him not only to continue visiting the Gibraltar area by land, as he has been doing to date, but also to circulate freely throughout Spain in conditions such that he will not be considered a foreigner in Spanish territory.

"The United Kingdom's reaction to this Spanish decision was indignantly made clear in the United Kingdom Parliament and also during an interview on 8 May 1968 between the Foreign Secretary, Mr. Stewart, and the Spanish Ambassador in London, the Marques de Santa Cruz. On that occasion, the Foreign Secretary accused Spain of obstructing the negotiations between Spain and the United Kingdom. He said that the latest action of the Spanish Government had 'damaged the prospect of an eventual solution' to the problem but he overlooked the fact that Her Majesty's Government had officially stated that it would not comply with resolution 2353 (XXII) which had called for those negotiations.

"As the fact of the United Kingdom's colonialist expansion beyond the confines of the territory ceded by Spain at Utrecht is no empty accusation by the Spanish Government, the Spanish Ambassador in London took that opportunity to transmit to Mr. Stewart various diplomatic documents substantiating that accusation.

"The documents in question are the following: a note verbale pointing out that the United Kingdom colonial authorities force foreign vessels to anchor in Spanish waters in the port of Algeciras-La Línea under the supervision of the United Kingdom military launches and, on occasion, to position themselves in the anchorage in such a way as to make it difficult for Spanish vessels to anchor in a Spanish harbour; two notes verbales protesting against eight violations of Spanish air space near the Rock committed by United Kingdom military aircraft during the current year. A memorandum describing the smuggling activities taking place on the Rock, to the detriment of the Spanish economy and, finally; a further memorandum protesting against the deliberate falsification of the scope of the decision taken by Spain on 6 May 1968, in order to present that decision to international and United Kingdom public opinion as a Spanish attack against the Gibraltarians whereas, in fact, Spain has granted the latter greater facilities for visiting our country than are available to them to enter the British Isles.

"I have the honour to transmit to Your Excellency herewith a copy of the Spanish legislative provision establishing the new transit system through the Police Control Post at La Línea de la Concepción, 3/ the Spanish Government communiqué explaining that decision, 4/ the United Kingdom note of protest dated 8 May 5/ and the three notes and three memoranda of the same date containing protests by the Spanish Government. 6/

"I should be most grateful if you would circulate to all delegations, as United Nations documents, this letter and the annexes thereto as an addendum to document A/7121 of 27 February 1968."

3/ Annex II.A.

4/ Annex II.B.

5/ Annex II.C.

6/ Annex II.D.

ANNEX I

Letter dated 13 March 1968 from the British Ambassador in Madrid
to the Minister for Foreign Affairs of Spain

[Original: English]

When I spoke to Your Excellency on 6 March I undertook to notify to you the names of the British delegation for the talks which were the subject of my note of 19 February and Your Excellency's note of 24 February.

I now have the honour to state that Mr. Beith will be accompanied by Mr. J.S. Bennett, Head of the Gibraltar and South Atlantic Department of the Commonwealth Office, and Mr. G.E. FitzHerbert from the Foreign Office.

I am also instructed to state, with reference to Your Excellency's note of 24 February, that the position of Her Majesty's Government with regard to the talks remains as stated in my note of 19 February. Her Majesty's Government have given careful consideration to the conflicting viewpoint of the Spanish Government and to the questions raised in Your Excellency's note. But as the date of Mr. Beith's visit is now very close, Her Majesty's Government believe that these matters can more conveniently be discussed during Mr. Beith's visit than in further exchanges of notes.

ANNEX II.A

[Original: Spanish]

Madrid, 23 March 1968

Sir,

With the prior agreement of the Council of Ministers at its meeting of 22 March 1968, the Office of the President of the Government has provided as follows:

Firstly. With effect from 6 May 1968, the Police Control Point of La Línea shall be closed for transit to all persons, of whatever nationality and irrespective of the documents presented, with the following exceptions:

1. Workers resident in Campo de Gibraltar who commute daily to work in the Plaza, for whom the present pass system shall remain in force;
2. Civilians who are permanent residents of Gibraltar and who have obtained authorization from the Military Governor of Campo de Gibraltar.
3. The Military Governor of Campo de Gibraltar shall, at his discretion, authorize crossing in emergencies for humanitarian reasons.

Secondly. With effect from 6 May, special passes of all kinds shall be abolished except for those issued for a limited number of visits to the persons referred to in exception 2 above, which shall remain in force until 6 July 1968.

These passes may be exchanged for a document to be issued by the Government of the Campo de Gibraltar and which shall normally entitle the bearer to cross once daily in both directions and to circulate freely throughout Spain.

Thirdly. This Order shall enter into force on 6 May 1968, whereupon the Order from the Office of the President of the Government of 29 April 1960 shall be deemed to be repealed.

I transmit this Order to you for action.

The Governor,
Campo de Gibraltar

/...

ANNEX II.B

[Original: Spanish]

The Office of Diplomatic Information has transmitted the following note:

"An Order from the Office of the President provides that, with effect from Monday, 6 May, the Police Control Point of La Línea de la Concepción will be closed for transit to all persons, of whatever nationality and irrespective of the documents presented.

"The same Order provides, as sole exceptions, that crossing will continue to be permitted through that point to Spanish workers working in Gibraltar and to civilians permanently resident in the Plaza who have obtained authorization from the Military Governor of Campo de Gibraltar, who may also, at his discretion, authorize crossing in emergencies for humanitarian reasons.

"These measures are a direct consequence of the attitude taken by the United Kingdom in declaring that it did not intend to implement the resolution adopted by the General Assembly of the United Nations on 19 December 1967, which recommended the decolonization of Gibraltar by means of negotiations between the United Kingdom and Spain designed to restore Spain's territorial integrity and safeguard the legitimate interests of the present population of the Rock upon the termination of the colonial situation.

"In a note of 19 February addressed to the Ministry of Foreign Affairs, and during the talks held at Madrid with the Assistant Under-Secretary of the Foreign Office, Mr. Beith, on 18 and 20 March, the United Kingdom officially notified Spain that it was not prepared to implement the aforesaid resolution. It was also made perfectly clear in these talks that the Government of the United Kingdom was invoking article X of the Treaty of Utrecht, which it considered to remain in force, to justify the continuation of the present colonial status of Gibraltar. The Spanish Government then pointed out, on 22 March, that the article referred to set certain clear-cut limits to the right of the United Kingdom which would be put into effect on the date and at the time deemed advisable.

"In the meanwhile, an attempt had been made by some Gibraltarians to initiate a dialogue. A group of eminent members of the colony, acting in a strictly personal capacity but in a very honest and gentlemanly manner, since they had informed the authorities of the Rock in advance of their intentions, had approached Madrid to request particulars of the offers made by Spain to the population of Gibraltar. In early April, these persons made public their inquiries of the Ministry of Foreign Affairs.

"The result is common knowledge. In spite of the realistic approach of this group, which was praised in the United Kingdom Press, and in spite of

/...

the moderation of Spain, which once again did not hesitate to hold out its hand, the more excitable Gibraltarians rioted in the streets, damaging property and endangering the lives of those whose only crime had been to express their opinions honestly. Meanwhile the Gibraltar radio and Press intensified its customary vilification of Spain.

"Spain's attitude, in view of these events, was clear. On 3 April, the Minister for Foreign Affairs, Mr. Castiella, said in a speech to the Spanish Cortes: 'I now wish to call to mind our common destiny, in which the inhabitants of Gibraltar can play an active part, without referring to present moods or to nervous and ill-humoured criticisms of us which, while understandable as temperamental outbursts not uncommon in this part of the peninsula, we will ignore, because, fundamentally, they fail to recognize the only important thing, namely, the future.'

"What is more, the gesture made by those who sought the dialogue was sufficient to make us postpone application of the measures for more than one month and to introduce a modification which emphasizes the fact that the Spanish Government, in adopting them, only wishes to defend itself against the proposal of the United Kingdom to perpetuate its presence in Gibraltar and that it does not wish to attack the legitimate interests of the population of the Rock. If these interests are harmed in any manner, the blame lies exclusively with the policy followed by the United Kingdom Government. This modification is important: permission to cross is given by the Police Control Post to all the inhabitants of Gibraltar who duly apply to the Military Governor of Campo de Gibraltar for authorization.

"However, one final event made it impossible to postpone the introduction of the new measures any further. As is known, the Gibraltar authorities were summoned to London, on 6 May, to prepare a constitutional conference in disregard of the decisions adopted by the United Nations and without the participation of Spain. For this reason the Spanish Government decided that it would inaugurate the new system for transit through the Police Control Post of La Línea de la Concepción on that very same day."

ANNEX II.C

[Original: English]

8 May 1968

I have asked you to call because I wish to express to you formally the protest of Her Majesty's Government at the new restrictions imposed by your Government at the land frontier between Gibraltar and Spain.

You will have seen what I had to say in the House of Commons about this on Monday, and you will have read the speech made by the Commonwealth Secretary yesterday evening. I am sure that you will already have reported on this to your Government, and I need not repeat now all that I and Mr. Thomson said in the House.

But I wish to emphasize two points.

First, we do not at all accept the arguments contained in the statement issued by your Government on Sunday, which attempted to justify the new restrictions. You are of course well aware of our views on the United Nations resolution of last December, and have been ever since the debate in New York. Our attitude on this provides no justification of the imposition of arbitrary restrictions at the frontier. Nor do we accept the legal argument based on the Treaty of Utrecht of 1713. During the 250 years since that Treaty was concluded Spain has permitted communication and the exchange of merchandise between Spain and Gibraltar and in the view of Her Majesty's Government Spain cannot now lawfully prevent the exercise of these rights which have been granted and exercised over such a very long period.

The second point which I wish to emphasize is the more important one. This latest action by your Government has damaged the prospects of an eventual solution which would be satisfactory to Her Majesty's Government and to the Spanish Government and acceptable to the people of Gibraltar. I believe that, given time, the problem is soluble. But the tactics of pressure such as the Spanish Government continue to use only serve to make the whole question more intractable than it need be and thus to delay even further the creation of conditions in which a solution might be possible.

I hope that in reporting what I and Mr. Thomson have said in the House of Commons you will also tell your Government of the strong feelings in support of the people of Gibraltar which were voiced from all sides of the House. It would be a mistake to suppose that this support, or the views of the Gibraltarians, will change or weaken in response to a continued campaign of restrictions and pressures. /...

ANNEX II.D

/Original: Spanish/

London, 8 May 1968

1. Note verbale

No. 136

On the instructions of its Government, the Embassy of Spain presents its compliments to the Foreign Office and has the honour to inform it that, for the reasons set forth in Notes No. 12 of 15 January and No. 70 of 11 March 1968 from the Spanish Ministry of Foreign Affairs, the Spanish Government cannot accept the protests, which have no legal foundation, contained in Notes No. 99 of 29 March and No. 120 of 26 April, from the Embassy of Her Britannic Majesty in Madrid concerning the presence of ships of the Spanish Navy in Spanish territorial waters.

With regard to the allegation made in the aforesaid Note No. 99 concerning the place of anchorage of the "Dedalo", this ship is situated south of the demarcation line of the waters of the port of Algeciras-La Linea since it was unable to anchor in the waters of that port, those waters being occupied by various vessels anchored there on the recommendation of the port authorities of the Plaza of Gibraltar which exceeded their authority by using waters belonging to the port of Algeciras-La Linea.

The Embassy of Spain takes this opportunity, etc.

2. Note Verbale

London, 8 May 1968

No. 137

The Embassy of Spain presents its compliments to the Foreign Office and, with reference to Note No. 142 of 14 June 1967 from the Spanish Ministry of Foreign Affairs, has the honour to inform it, on the instructions of its Government, that, on 19 February, 3 and 6 March, 8 and 26 April 1968, British aircraft violated Spanish air space seven times. These violations are all the more serious because they occurred within the Prohibited Zone of Algeciras, as is proved by the enclosed photographs.

The Embassy of Spain has also been instructed to protest to the Government of Her Britannic Majesty most vigorously on behalf of the Spanish Government against these new violations.

The Embassy of Spain takes this opportunity, etc.

3. Note verbale

London, 8 May 1968

No. 138

On the instructions of its Government, the Embassy of Spain presents its compliments to the Foreign Office and, with reference to notes verbales No. 62 of 27 February and No. 121 of 26 April 1968 from the Embassy of Her Britannic Majesty in Madrid, has the honour to transmit herewith a memorandum prepared by the competent services of the Spanish Air Ministry.

The Spanish Government reminds the Government of Her Britannic Majesty of the contents of note verbale No. 142 of 14 June 1967 from the Spanish Ministry of Foreign Affairs and maintains its most vigorous protest against the violations of Spanish air space by British military aircraft.

The Embassy of Spain takes this opportunity, etc.

4. Memorandum on violations by British military aircraft on
20, 24, 25, 26 and 31 October, 2, 3, 8, 21, 22, 23 and
29 November 1967 and 5 January 1968

A further and very thorough study of each of the incidents previously reported establishes beyond all doubt the presence of British aircraft within the air space which Spain has declared prohibited to flying, since the evidence available and duly submitted on the occasion of each denunciation is sufficient to prove this.

Once again the rejections by the Government of Her Britannic Majesty are not supported by any real data. We should therefore be grateful to receive the evidence which convinced the Government of Her Britannic Majesty that the aircraft, whose presence in the prohibited air space was adequately proved by Spain by means of the documents supplied, followed the established procedures without in any case violating Spanish rights.

The Canberra aircraft of the Royal Air Force bearing the marking MSZLY, which inadvertently, it appears, flew over Spanish territory on 7 December 1967, west and south-west of Algeciras, and concerning with the Embassy of Her Britannic Majesty reports in Note No. 62, was exposed to obvious danger since, owing to a serious breakdown in the British radar installations, it was forced to carry out a "landing approach manoeuvre" for twenty minutes, which meant that the aircraft flew for a distance of approximately sixty-five kilometres before reaching the actual landing strip, according to the time and distance calculated from the time schedule in the British note and the actual time of landing.

The seriousness of this important breakdown in the British technical services is all the more regrettable as the consequences of the incident would have had to be borne by Spain, to an extent that cannot be calculated today.

The aforesaid Canberra aircraft flying from Bruggen landed at Gibraltar airfield at 1605Z on 7 December 1967. During the approach manoeuvre for landing on strip 27 it did not fly over the Prohibited Zone (annex No. 1).

We would be grateful to receive particulars of the route followed by the aircraft between 1545Z and 1555Z, the period of the violation reported by the United Kingdom authorities, since during the same day, although not at the time given in the aforesaid schedule, the Spanish radar installations tracked the flight, west and south-west of Algeciras, of an aircraft that was not definitely identified, for which reason no protest has so far been made.

5. Memorandum

London, 8 May 1968

The Spanish Government has protested on countless occasions against the facilities granted by the authorities of the colony of Gibraltar to persons and organizations established in the colony whose smuggling activities are only too well known.

These protests have been to no avail. The most recent such incident was the capture, on 7 May 1968, by the Spanish Fiscal Control Service, in the waters of Cadiz, of the merchant ship "Alconia" of approximately 500 tons and of Panamanian registration, which had recently illegally transshipped a large cargo of tobacco which had been impounded on the northern coast of Spain.

The owner of the "Alconia" is Mr. Andrés Galea, who is domiciled at 6 Trafalgar House, Gibraltar. Its Captain is Mr. José Víctor Napoli Torres, also resident in Gibraltar, at 7 Crutchitts Ramp. One of the crew is the Gibraltarian Bartolomé Licudi Moya. Mr. Napoli and Mr. Licudi have previous convictions of smuggling in Spain. Mr. Galea was also the owner of the speedboat "Lina", which was caught last month carrying 300,000 packets of American cigarettes.

Both the "Lina" and the "Alconia" have been operating from Gibraltar.

These offences cause serious damage to the Spanish economy and the facilities available in Gibraltar for committing them should be stopped.

6. Memorandum

London, 8 May 1968

Once again the Spanish Government points out that the sole purpose of the system established on 6 May 1968 for crossing at the Police Control Point of La Línea de la Concepción is to bring the situation of Gibraltar into conformity with the provisions of article X of the Treaty of Utrecht, invoked by the United Kingdom to justify its continued presence in Gibraltar.

In view of the attitude taken by the United Kingdom Government, which is determined to perpetuate a colonial and military situation in Spanish territory in defiance of the United Nations resolutions, the Spanish Government has no other alternative but to continue to reactivate those provisions of the Treaty of Utrecht which enable it, under international law, to protect Spanish sovereignty by peaceful means. The measures taken by Spain are not directed against the Gibraltarians.

The statements by General Lathbury, British Military Governor of the Colony, therefore came as a surprise to the Spanish Government. According to The Times of 6 May 1968, he said that he sympathized with the strong desire of many Gibraltarians to "adopt local measures of reprisal".

These words, and others uttered in the United Kingdom Parliament, which falsify the true meaning and intent of the Spanish measures, are designed to whip up the passions of the Gibraltarians against Spain.

Once again the Spanish Government takes note of the policy of the United Kingdom Government which is forcing the population of Gibraltar, at the cost of its own legitimate interests, to defend the military and colonial interests of the United Kingdom.
